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The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0008; Product Identifier 2013–NM–076–AD; Amendment 39–18985; AD 2017–16–08]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2012–23–09, which applied to all Embraer S.A. Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. AD 2012–23–09 required revising the maintenance program to incorporate certain modifications in airworthiness limitations. This new AD requires revising the maintenance or inspection program to incorporate certain modifications in the airworthiness limitations to include new inspection tasks and their respective thresholds and intervals. This AD was prompted by our determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of January 14, 2013 (77 FR 73270, December 10, 2012).

ADDRESSES: For service information identified in this final rule, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ana Martinez Hueto, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1622; fax 425–227–1320.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 to supersede AD 2012–23–09, Amendment 39–17265 (77 FR 73270, December 10, 2012) (''AD 2012–23–09''). AD 2012–23–09 applied to all Embraer S.A. Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. The SNPRM published in the **Federal Register** on May 22, 2017 (82 FR 23153) (''the SNPRM''). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on February 3, 2014 (79 FR 6106) (''the NPRM''). The NPRM was prompted by our determination that more restrictive maintenance requirements and airworthiness limitations are necessary. The NPRM proposed to require revising the maintenance or inspection program to incorporate modifications in the airworthiness limitations specified in the Embraer S.A. ERJ 190/195 MRBR to include new inspection tasks and their respective thresholds and intervals. The SNPRM proposed to revise the NPRM by adding a requirement to revise the maintenance or inspection program, as applicable, to incorporate new airworthiness limitations and by adding certain airplanes to the applicability. We are issuing this AD to detect and correct fatigue cracking of structural components, which could result in reduced structural integrity of the airplane.

The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directive 2016–04–01, effective April 4, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on certain Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 IGW, and –100 ECJ airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes. The MCAI states:

> This [Brazilian] AD was prompted by a determination that existing maintenance requirements and airworthiness limitations are inadequate to ensure the structural integrity of the airplane. We are issuing this [Brazilian] AD to prevent failure of certain system components, which could result in reduced structural integrity of the airplane.

The required action is revising the maintenance or inspection program, as applicable, to incorporate the airworthiness limitations.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

• Are consistent with the intent that was proposed in the SNPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the SNPRM.

Related Service Information Under 1 CFR Part 51

Embraer S.A. has issued the following service information for Model ERJ 190–100 STD, ERJ 190–100 LR, ERJ 190–100 IGW, ERJ 190–200 STD, ERJ 190–200 LR, and ERJ 190–200 IGW airplanes.

• Appendix A, Airworthiness Limitations (AL), of the EMBRAER ERJ 190/195 Maintenance Review Board Report (MRBR), MRB–1928, Revision 9, dated August 14, 2015. This service information describes certification maintenance requirements, airworthiness limitation inspections for structures, fuel system limitation items, and life limited items, which make up the airworthiness limitations in the MRBR.

• EMBRAER MRB—Temporary Revision 9–1, dated October 27, 2015, which provides revised airworthiness limitation inspections and life-limited items due to new structural provisions for Live TV and Connectivity System.

• EMBRAER MRB—Temporary Revision 9–3, dated October 27, 2015, which updates the life limitations of certain main landing gear and nose landing gear components.

Embraer S.A. has also issued the following service information for Model ERJ 190–100 ECJ airplanes.

• Appendix A, Airworthiness Limitations (AL), of the EMBRAER Lineage 1000/1000E Maintenance Planning Guide (MPG), MPG–2928, Revision 4, dated July 14, 2014. This service information describes certification maintenance requirements, airworthiness limitation inspections for structures, fuel system limitation items, and life-limited items, which make up the airworthiness limitations in the MPG.

• EMBRAER MPG—Temporary Revision 4–2, dated February 13, 2015, which describes detailed inspections for the upper doubler at the forward passenger door cutout.

• EMBRAER MPG—Temporary Revision 4–3, dated October 30, 2015, which updates the life limitations of certain main landing gear and nose landing gear components.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 83 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revision (retained actions from AD 2012–23–09).	1 work-hour × $85 per hour = $85	$0	$85	$7,055
Revision to include MPG–2928, Revision 4, and temporary revisions (new action).	1 work-hour × $85 per hour = $85	0	85	7,055

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2012–23–09, Amendment 39–17265 (77 FR 73270, December 10, 2012), and adding the following new AD:

2017–16–08 Embraer S.A.: Amendment 39–18985; Docket No. FAA–2014–0008; Product Identifier 2013–NM–076–AD.

(a) Effective Date

This AD is effective October 11, 2017.

(b) Affected ADs

This AD replaces 2012–23–09, Amendment 39–17265 (77 FR 73270, December 10, 2012) (''AD 2012–23–09'').

(c) Applicability

This AD applies to Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category; serial numbers 19000002, 19000004, 19000006 through 19000213 inclusive, 19000215 through 19000276 inclusive, 19000278 through 19000466 inclusive, 19000468 through 19000525 inclusive, and 19000527 through 19000696 inclusive.

(d) Subject

Air Transport Association (ATA) of America Codes 27, Flight controls; 28, Fuel; 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; 57, Wings; 71, Powerplant; and 78, Exhaust.

(e) Reason

This AD was prompted by a determination that more restrictive airworthiness limitations are necessary. We are issuing this AD to detect and correct fatigue cracking of structural components and to prevent failure of certain system components; these conditions could result in reduced structural integrity and system reliability of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Revision of the Maintenance Program, With No Changes

For Model ERJ 190–100 STD, ERJ 190–100 LR, ERJ 190–100 IGW, ERJ 190–200 STD, ERJ 190–200 LR, and ERJ 190–200 IGW airplanes: This paragraph restates the actions required by paragraph (h) of AD 2012–23–09, with no changes. Within 90 days after January 14, 2013 (the effective date of AD 2012–23–09), revise the maintenance program to incorporate the tasks specified in Part 2—Airworthiness Limitation Inspections (ALI)—Structures, of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010; and EMBRAER Temporary Revision (TR) 5–1, dated February 11, 2011, to Part 2—Airworthiness Limitation Inspections (ALI)—Structures, of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010; with the thresholds and intervals stated in these documents. The initial compliance times for the tasks are stated in the ''Implementation Plan'' section of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010.

(h) Retained No Alternative Actions or Intervals, With New Exception

This paragraph restates the actions required by paragraph (i) of AD 2012–23–09, with a new exception. After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used, unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (k)(1) of this AD, and except as required by paragraph (i) of this AD.

(i) New Requirements of This AD: Revision of the Maintenance or Inspection Program

(1) For Model ERJ 190–100 STD, ERJ 190–100 LR, ERJ 190–100 IGW, ERJ 190–200 STD, ERJ 190–200 LR, and ERJ 190–200 IGW airplanes: Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the tasks specified in Part 2—Airworthiness Limitation Inspections—Structures, of Appendix A—Airworthiness Limitations (AL), of the EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 9, dated August 14, 2015 (''MRB–1928, Revision 9''); EMBRAER MRB—TR 9–1, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, and Part 4—Life Limited Items, of Appendix A, Airworthiness Limitations (AL), of MRB–1928, Revision 9; and EMBRAER MRB—TR 9–3, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, of Appendix A, Airworthiness Limitations (AL), of MRB–1928, Revision 9; with the thresholds and intervals stated in these documents. The initial compliance times for the tasks are at the later of the times specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this AD. Doing the revision required by this paragraph terminates the revision required by paragraph (g) of this AD.

(i) Within the applicable times specified in MRB–1928, Revision 9; EMBRAER MRB—TR 9–1, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, and Part 4—Life Limited Items, of Appendix A, Airworthiness Limitations (AL), of MRB–1928, Revision 9; and EMBRAER MRB—TR 9–3, dated October 27, 2015, to Part 2—Airworthiness Limitation Inspections—Structures, of Appendix A, Airworthiness Limitations (AL), of MRB–1928, Revision 9. Where tasks are listed in both MRB–1928, Revision 9, and a temporary revision, the compliance times in the temporary revision take precedence.

(ii) Within 90 days or 600 flight cycles after the effective date of this AD, whichever occurs later.

(2) For Model ERJ 190–100 ECJ airplanes: Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the tasks specified in Part 1, Certification Maintenance Requirements, Part 2, Airworthiness Limitation Inspections—Structures, Part 3, Fuel System Limitation Items, and Part 4, Life Limited Items, of Appendix A, Airworthiness Limitation, of the EMBRAER Lineage 1000/1000E Maintenance Planning Guide, MPG–2928, Revision 4, dated July 14, 2014; EMBRAER MPG—TR 4–2, dated February 13, 2015; and EMBRAER MPG—TR 4–3, dated October 30, 2015; with the thresholds and intervals stated in these documents. The initial compliance times for the tasks are at the later of the times specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD.

(i) Within the applicable times specified in Part 1, Certification Maintenance Requirements, Part 2, Airworthiness Limitation Inspections—Structures, Part 3, Fuel System Limitation Items, and Part 4, Life Limited Items, of Appendix A, Airworthiness Limitation (AL), of the EMBRAER Lineage 1000/1000E Maintenance Planning Guide, MPG–2928, Revision 4, dated July 14, 2014; EMBRAER MPG—TR 4–2, dated February 13, 2015; and EMBRAER MPG—TR 4–3, dated October 30, 2015. Where tasks are listed in both MPG–2928, Revision 4, and a temporary revision, the compliance times in the temporary revision take precedence.

(ii) Within 90 days or 600 flight cycles after the effective date of this AD, whichever occurs later.

(j) No Alternative Actions, Intervals, and/or Critical Design Configuration Control Limitations (CDCCLs)

After accomplishment of the revision required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Section, Transport Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Section, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the Agência Nacional de Aviação Civil (ANAC); or ANAC's authorized Designee. If approved by the ANAC Designee, the approval must include the Designee's authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian

AD 2016–04–01, effective April 4, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0008.

(2) For more information about this AD, contact Ana Martinez Hueto, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1622; fax 425–227–1320.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on October 11, 2017.

(i) Appendix A, Airworthiness Limitations (AL), of the EMBRAER ERJ 190/195 Maintenance Review Board Report, MRB–1928, Revision 9, dated August 14, 2015.

(ii) Appendix A, Airworthiness Limitations (AL), of the EMBRAER Lineage 1000/1000E Maintenance Planning Guide, MPG–2928, Revision 4, dated July 14, 2014.

(iii) EMBRAER MPG—Temporary Revision 4–2, dated February 13, 2015.

(iv) EMBRAER MPG—Temporary Revision 4–3, dated October 30, 2015.

(v) EMBRAER MRB—Temporary Revision 9–1, dated October 27, 2015.

(vi) EMBRAER MRB—Temporary Revision 9–3, dated October 27, 2015.

(4) The following service information was approved for IBR on January 14, 2013 (77 FR 73270, December 10, 2012).

(i) EMBRAER Temporary Revision (TR) 5–1, dated February 11, 2011, to Part 2—Airworthiness Limitation Inspections (ALI)—Structures, of Appendix A, Airworthiness Limitations (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010.

(ii) Appendix A, Airworthiness Limitation (AL), of the EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010.

(5) For service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com.*

(6) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on July 28, 2017.

John P. Piccola, Jr.,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–16667 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0474; Product Identifier 2016–NM–096–AD; Amendment 39–19007; AD 2017–17–17]

RIN 2120–AA64

Airworthiness Directives; Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.; Canadair Limited) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–03–08, which applied to certain Bombardier, Inc., Model CL–215–1A10 (CL–215), CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) airplanes. AD 2011–03–08 required an inspection to determine the number of flight cycles accumulated by certain accumulators installed on the airplane, and repetitive inspections of the accumulators for cracks, and replacement if necessary. This AD retains those inspections and the accumulator replacement if necessary, and adds a new terminating action to address the identified unsafe condition. This AD was prompted by the development of a terminating action for the repetitive inspections. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of March 14, 2011 (76 FR 6536, February 7, 2011).

ADDRESSES: For service information identified in this final rule, contact Viking Air Limited, 1959 de Havilland Way, Sidney, British Columbia V8L 5V5, Canada; telephone +1–250–656–7227; fax +1–250–656–0673; email *acs-technical.publications@vikingair.com;* Internet *http://www.vikingair.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0474.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0474; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cesar A. Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–03–08, Amendment 39–16592 (76 FR 6536, February 7, 2011) (''AD 2011–03–08''). AD 2011–03–08 applied to certain Bombardier, Inc., Model CL–215–1A10 (CL–215), CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) airplanes. The NPRM published in the **Federal Register** on May 18, 2017 (82 FR 22766). The NPRM was prompted by the development of a terminating action (relocation of the affected accumulators, and incorporation of new airworthiness limitations), which addresses the unsafe condition. The NPRM proposed to continue to require an inspection to determine the number of flight cycles accumulated by applicable accumulators (*i.e.,* brake, aileron, elevator, and rudder accumulators) installed on the airplane, repetitive ultrasonic inspections of the accumulators for cracks, and

replacement of any accumulator in which a crack is detected. The NPRM also proposed to require a new terminating action for the repetitive inspections. We are issuing this AD to prevent failure of the screw cap or end cap of certain accumulators, which could result in impact damage to various components, potentially resulting in fuel spillage, uncommanded flap movement, or loss of aileron control.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2009–42R2, dated May 30, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Viking Air Limited Model CL–215–1A10 (CL–215), CL–215–6B11 (CL–215T Variant), and CL–215–6B11 (CL–415 Variant) airplanes. The MCAI states:

Seven cases of on-ground hydraulic accumulator screw cap or end cap failure have been experienced on CL–600–2B19 (CRJ) aeroplane, resulting in loss of the associated hydraulic system and high-energy impact damage to adjacent systems and structure. To date, the lowest number of flight cycles accumulated at the time of failure has been 6991.

Although there have been no failures to date on any CL–215–1A10 (CL–215) or CL–215–6B11 (CL–215T and CL–415) aeroplane, similar accumulators, Part Number (P/N) 08–8423–010 (MS28700–3), to those installed on the CL–600–2B19, are installed on the aeroplane models listed in the Applicability section of this [Canadian] AD.

A detailed analysis of the systems and structure in the potential line of trajectory of a failed screw cap/end cap for each accumulator has been conducted. It has identified that the worst-case scenarios would be impact damage to various components, potentially resulting in fuel spillage, uncommanded flap movement, or loss of aileron control.

This [Canadian] AD mandates repetitive [ultrasonic] inspections of the accumulators for cracks and replacement of any accumulator in which a crack is detected.

Revision 1 of this [Canadian] AD clarified the text of the [Canadian] AD, including the P/N of the affected accumulators.

This revision provides the terminating action [relocation of affected accumulators and incorporation of new airworthiness limitations] to this [Canadian] AD. It also modifies the applicability range for the CL–215–1A10 (CL–215); the CL–215 is out of production and the last aeroplane produced was serial number 1125.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0474.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Explanation of Changes Made to This Final Rule

We have revised this final rule to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

In the proposed AD, we inadvertently listed the wrong publication dates for service information in two places. Table 4 to paragraph (o) of the proposed AD referred to Bombardier Service Bulletin 215–4470, Revision 1, dated December 13, 2013. We have corrected the publication date for this document to June 27, 2014, in this AD. Additionally, paragraph (r)(1)(iii) of the proposed AD referred to Bombardier Service Bulletin 215–3158, dated March 28, 2012. We have corrected the publication date for this document to March 21, 2012, in this AD.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information:

- Bombardier Service Bulletin 215–552, Revision 2, dated June 18, 2015. This service information describes procedures to relocate the aileron hydraulic accumulator aft of its current location.
- Bombardier Service Bulletin 215–3158, Revision 2, dated April 15, 2014; and Bombardier Service Bulletin 215–4423, Revision 5, dated March 17, 2016. This service information describes procedures to relocate the aileron, elevator, and rudder hydraulic accumulators aft and outboard of their current locations. These documents are distinct since they apply to different airplane models.
- Bombardier Service Bulletin 215–557, Revision 1, dated June 27, 2014; Bombardier Service Bulletin 215–3182, Revision 1, dated June 27, 2014; and Bombardier Service Bulletin 215–4470, Revision 1, dated June 27, 2014. This service information describes procedures to establish the number of flight hours for each accumulator and determine if it has been used on another type of aircraft. These documents are distinct since they apply to different airplane models.
- Bombardier Temporary Revision 5–56, dated December 13, 2013; Bombardier Temporary Revision 295/7, dated December 13, 2013; Bombardier Temporary Revision LLC–1, dated December 13, 2013; and Bombardier Temporary Revision LLC–3, dated December 13, 2013. This service information provides a 10,000-hour accumulator life limitation for certain accumulators. These documents are distinct since they apply to different airplane models.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 7 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Ultrasonic inspection (retained action from AD 2011–03–08).	7 work-hours × $85 per hour = $595	$0	$595	$4,165
Relocation, determination of accumulator hours and usage, and maintenance or inspection program revision (new action).	56 work-hours × $85 per hour = $4,760	0	4,760	33,320

We estimate the following costs to do any necessary replacement that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this replacement.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of cracked part (retained action from AD 2011–03–08).	6 work-hours × $85 per hour = $510	$4,055	$4,565

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to transport category airplanes to the Director of the System Oversight Division.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–03–08, Amendment 39–16592 (76 FR 6536, February 7, 2011), and adding the following new AD:

2017–17–17 Viking Air Limited (Type Certificate Previously Held by Bombardier, Inc.; Canadair Limited): Amendment 39–19007; Docket No. FAA–2017–0474; Product Identifier 2016–NM–096–AD.

(a) Effective Date

This AD is effective October 11, 2017.

(b) Affected ADs

This AD replaces AD 2011–03–08, Amendment 39–16592 (76 FR 6536, February 7, 2011) (''AD 2011–03–08'').

(c) Applicability

This AD applies to Viking Air Limited (Type Certificate previously held by Bombardier, Inc.; Canadair Limited) airplanes, certificated in any category, as identified in paragraphs (c)(1) through (c)(3) of this AD.

(1) Model CL–215–1A10 (CL–215) airplanes, serial numbers 1001 through 1125 inclusive.

(2) Model CL–215–6B11 (CL–215T Variant) airplanes, serial numbers 1056 through 1125 inclusive.

(3) Model CL–215–6B11 (CL–415 Variant) airplanes, serial numbers 2001 through 2990 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 29, Hydraulic power.

(e) Reason

This AD was prompted by reports of on-ground hydraulic accumulator screw cap or end cap failure resulting in a loss of the associated hydraulic system and high-energy impact damage to adjacent systems and structure. We are issuing this AD to prevent failure of the screw cap or end cap, which could result in impact damage to various components, potentially resulting in fuel spillage, uncommanded flap movement, or loss of aileron control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Inspection To Determine Flight Cycles, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2011–03–08, with no changes. Within 50 flight hours after March 14, 2011 (the effective date of AD 2011–03–08), inspect to determine the number of flight cycles accumulated by each of the applicable accumulators (*i.e.,* brake, aileron, elevator, and rudder accumulators) having part number 08–8423–010 (MS28700–3) installed on the airplane. A review of airplane maintenance records is acceptable in lieu of this inspection if the number of flight cycles accumulated can be conclusively determined from that review.

(h) Retained Initial Ultrasonic Inspection for Model CL–215–1A10 (CL–215) and CL–215–6B11 (CL–215T Variant) Airplanes, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2011–03–08, with no changes. For Model CL–215–1A10 (CL–215) and CL–215–6B11 (CL–215T Variant) airplanes: Do an ultrasonic inspection for cracking of the accumulator at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, in accordance with Part B of the Accomplishment Instructions of the

applicable service bulletin listed in table 1 to paragraphs (h), (i), and (k) of this AD.

TABLE 1 TO PARAGRAPHS (h), (i), AND (k) OF THIS AD—SERVICE BULLETINS

For model—	Use bombardier service bulletin—
CL–215–1A10 (CL–215)	215–541, Revision 1, dated March 12, 2010.
CL–215–6B11 (CL–215T Variant).	215–3155, Revision 1, dated March 12, 2010.
CL–215–6B11 (CL–415 Variant).	215–4414, Revision 1, dated March 12, 2010.

(1) For any accumulator on which the inspection required by paragraph (g) of this AD shows an accumulation of more than 875 total flight cycles, or on which it is not possible to determine the number of total accumulated flight cycles, do the inspection within 125 flight cycles after March 14, 2011 (the effective date of AD 2011–03–08).

(2) For any accumulator on which the inspection required by paragraph (g) of this AD shows an accumulation of 875 total flight cycles or fewer, do the inspection before the accumulation of 1,000 flight cycles on the accumulator.

(i) Retained Initial Ultrasonic Inspection for Model CL–215–6B11 (CL–415 Variant) Airplanes, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2011–03–08, with no changes. For Model CL–215–6B11 (CL–415 Variant) airplanes, do an ultrasonic inspection for cracking of the accumulator at the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, in accordance with Part B of the Accomplishment Instructions of the applicable service bulletin listed in table 1 to paragraphs (h), (i), and (k) of this AD.

(1) For any accumulator on which the inspection required by paragraph (g) of this AD shows an accumulation of more than 750 flight cycles, or on which it is not possible to determine the number of total accumulated flight cycles, do the inspection within 250 flight cycles after March 14, 2011 (the effective date of AD 2011–03–08).

(2) For any accumulator on which the inspection required by paragraph (g) of this AD shows an accumulation of 750 total flight cycles or fewer, do the inspection before the accumulation of 1,000 flight cycles on the accumulator.

(j) Retained Repetitive Inspections, With New Terminating Action

This paragraph restates the requirements of paragraph (j) of AD 2011–03–08, with new terminating action. If no cracking is found during any inspection required by paragraph (h) or (i) of this AD, repeat the inspection thereafter at intervals not to exceed 750 flight cycles until the actions required by paragraphs (n), (o), and (p) of this AD have been done.

(k) Retained Replacement of Cracked Accumulators and Repetitive Inspections, With New Terminating Action

This paragraph restates the requirements of paragraph (k) of AD 2011–03–08, with new terminating action. If any cracking is found during any inspection required by paragraph (h) or (i) of this AD, before further flight, replace the accumulator with a serviceable accumulator, in accordance with Part B of the Accomplishment Instructions of the applicable service bulletin listed in table 1 to paragraphs (h), (i), and (k) of this AD. Doing the replacement does not end the inspection requirements of paragraphs (h) and (i) of this AD. Repeat the inspections required by paragraph (h) or (i) of this AD, as applicable, at intervals not to exceed 750 flight cycles until the actions required by paragraphs (n), (o), and (p) of this AD have been done.

(l) Retained Parts Installation Limitation, With No Changes

This paragraph restates the parts installation limitation in paragraph (l) of AD 2011–03–08, with no changes. As of March 14, 2011 (the effective date of AD 2011–03–08), no person may install an accumulator, part number 08–8423–010 (MS28700–3), on any airplane unless the accumulator has been inspected in accordance with the requirements of paragraph (h) or (i) of this AD.

(m) Retained Credit for Previous Actions, With No Changes

This paragraph restates the credit provided in paragraph (m) of AD 2011–03–08, with no changes. Inspections accomplished before March 14, 2011 (the effective date of AD 2011–03–08), in accordance with the applicable service bulletin listed in table 2 to paragraph (m) of this AD are considered acceptable for compliance with the corresponding action specified in paragraph (h), (i), (j), or (k) of this AD.

TABLE 2 TO PARAGRAPH (m) OF THIS AD—CREDIT SERVICE BULLETINS

For model—	Use Bombardier Service Bulletin—
CL–215–1A10 (CL–215)	215–541, dated July 9, 2009.
CL–215–6B11 (CL–215T Variant).	215–3155, dated July 9, 2009.
CL–600–6B11 (CL–415 Variant).	215–4414, dated July 9, 2009.

(n) New Relocation of Affected Accumulators

Within 12 months after the effective date of this AD, relocate affected hydraulic accumulators, in accordance with the Accomplishment Instructions of the applicable Bombardier service bulletin specified in table 3 to paragraph (n) of this AD.

TABLE 3 TO PARAGRAPH (n) OF THIS AD—SERVICE INFORMATION FOR RELOCATING ACCUMULATORS

For model—	Affected accumulators—	Use Service Bulletin—
CL–215–1A10 (CL–215)	Aileron, if installed	Bombardier Service Bulletin 215–552, Revision 2, dated June 18, 2015.
CL–215–6B11 (CL–215T Variant)	Aileron, rudder, and elevator	Bombardier Service Bulletin 215–3158, Revision 2, dated April 15, 2014.
CL–215–6B11 (CL–415 Variant)	Aileron, rudder, and elevator	Bombardier Service Bulletin 215–4423, Revision 5, dated March 17, 2016.

(o) New Establishment of Flight Hours on the Accumulator, Determination of Previous Use of the Accumulator, and Replacement if Necessary

Within 12 months after the effective date of this AD, establish the number of flight hours for each accumulator, and determine whether any accumulator has been used in service on another type of airplane other than Model CL–215–1A10 (CL–215), CL–215–6B11 (CL–215T Variant), or CL–215–6B11 (CL–415 Variant), in accordance with the Accomplishment Instructions in the applicable Bombardier service bulletin specified in table 4 to paragraph (o) of this AD. If any accumulator is found that has been in service on another type of airplane other than Model CL–215–1A10 (CL–215), CL–215–6B11 (CL–215T Variant), or CL–215–6B11 (CL–415 Variant), replace the accumulator within 50 flight hours after determining an affected accumulator is installed.

TABLE 4 TO PARAGRAPH (o) OF THIS AD—ESTABLISHMENT OF NUMBER OF FLIGHT HOURS ON THE ACCUMULATOR

For model—	Use Service Bulletin—
CL–215–1A10 (CL–215)	Bombardier Service Bulletin 215–557, Revision 1, dated June 27, 2014 (applicable to MS28700–3 accumulator).

TABLE 4 TO PARAGRAPH (o) OF THIS AD—ESTABLISHMENT OF NUMBER OF FLIGHT HOURS ON THE ACCUMULATOR—Continued

For model—	Use Service Bulletin—
CL–215–6B11 (CL–215T Variant)	Bombardier Service Bulletin 215–3182, Revision 1, dated June 27, 2014.
CL–215–6B11 (CL–415 Variant)	Bombardier Service Bulletin 215–4470, Revision 1, dated June 27, 2014.

(p) New Airworthiness Limitations

Within 30 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the 10,000-hour accumulator life limitation specified in the applicable Time Limits/Maintenance Checks (TLMC) Manual temporary revisions (TRs) listed in table 5 to paragraph (p) of this AD. The initial compliance time for accomplishing the replacement of the accumulator is within the limitation specified in the applicable TR specified in table 5 to paragraph (p) of this AD, or within 30 days after the effective date of this AD, whichever occurs later.

TABLE 5 TO PARAGRAPH (p) OF THIS AD—AIRWORTHINESS LIMITATIONS

For model—	Comply with Bombardier TLMC manual—	Bombardier TR No.—	Dated—
CL–215–1A10 (CL–215)	PSP 295	295/7	December 13, 2013.
CL–215–6B11 (CL–215T Variant)	PSP 395	LLC–3	December 13, 2013.
CL–215–6B11 (CL–215T Variant)	PSP 395–1	LLC–1	December 13, 2013.
CL–215–6B11 (CL–415 Variant)	PSP 495	5–56	December 13, 2013.

(q) No Alternative Actions and Intervals

After accomplishment of the revision required by paragraph (p) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (s)(1) of this AD.

(r) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (n) of this AD, if those actions were performed before the effective date of this AD using any applicable service information specified in paragraphs (r)(1)(i) through (r)(1)(ix) of this AD.

(i) Bombardier Service Bulletin 215–552, dated December 16, 2013.

(ii) Bombardier Service Bulletin 215–552, Revision 1, dated September 12, 2014.

(iii) Bombardier Service Bulletin 215–3158, dated March 21, 2012.

(iv) Bombardier Service Bulletin 215–3158, Revision 1, dated December 16, 2013.

(v) Bombardier Service Bulletin 215–4423, Revision NC, dated April 4, 2011.

(vi) Bombardier Service Bulletin 215–4423, Revision 1, dated September 28, 2011.

(vii) Bombardier Service Bulletin 215–4423, Revision 2, dated May 30, 2012.

(viii) Bombardier Service Bulletin 215–4423, Revision 3, dated December 16, 2013.

(ix) Bombardier Service Bulletin 215–4423, Revision 4, dated December 3, 2015.

(2) This paragraph provides credit for actions required by paragraph (o) of this AD, if those actions were performed before the effective date of this AD using any applicable service information specified in paragraphs (r)(2)(i) through (r)(2)(iii) of this AD.

(i) Bombardier Service Bulletin 215–557, Revision NC, dated December 13, 2013.

(ii) Bombardier Service Bulletin 215–3182, Revision NC, dated December 13, 2013.

(iii) Bombardier Service Bulletin 215–4470, Revision NC, dated December 13, 2013.

(s) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Viking Air Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(t) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2009–42R2, dated May 30, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0474.

(2) For more information about this AD, contact Cesar A. Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (u)(5) and (u)(6) of this AD.

(u) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on October 11, 2017.

(i) Bombardier Service Bulletin 215–552, Revision 2, dated June 18, 2015.

(ii) Bombardier Service Bulletin 215–557, Revision 1, dated June 27, 2014.

(iii) Bombardier Service Bulletin 215–3158, Revision 2, dated April 15, 2014.

(iv) Bombardier Service Bulletin 215–3182, Revision 1, dated June 27, 2014.

(v) Bombardier Service Bulletin 215–4423, Revision 5, dated March 17, 2016.

(vi) Bombardier Service Bulletin 215–4470, Revision 1, dated June 27, 2014.

(vii) Bombardier Temporary Revision 5–56, dated December 13, 2013.

(viii) Bombardier Temporary Revision 295/7, dated December 13, 2013.

(ix) Bombardier Temporary Revision LLC–1, dated December 13, 2013.

(x) Bombardier Temporary Revision LLC–3, dated December 13, 2013.

(4) The following service information was approved for IBR on March 14, 2011 (76 FR 6536, February 7, 2011).

(i) Bombardier Service Bulletin 215–541, Revision 1, dated March 12, 2010.

(ii) Bombardier Service Bulletin 215–3155, Revision 1, dated March 12, 2010.

(iii) Bombardier Service Bulletin 215–4414, Revision 1, dated March 12, 2010.

(5) For service information identified in this AD, contact Viking Air Limited, 1959 de

Havilland Way, Sidney, British Columbia V8L 5V5, Canada; telephone +1–250–656–7227; fax +1–250–656–0673; email *acs-technical.publications@vikingair.com;* Internet *http://www.vikingair.com.*

(6) You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(7) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on August 16, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–17838 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0638; Product Identifier 2017–CE–018–AD; Amendment 39–19019; AD 2017–18–10]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH Models DA 42, DA 42 M–NG, and DA 42 NG airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as crack formation on the flap bell crank, which could cause the flap bell crank to fail. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective October 11, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 11, 2017.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0638; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for Docket No. FAA–2017–0638.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Diamond Aircraft Industries GmbH Models DA 42, DA 42 M–NG, and DA 42 NG airplanes. The NPRM was published in the **Federal Register** on June 23, 2017 (82 FR 28594). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

> Cracks and deformation have been found on the flap bell crank Part Number (P/N) D60–2757–11–00. Frequent high load conditions have been identified as the root cause.
>
> This condition, if not detected and corrected, could lead to failure of the flap bell crank and consequent reduced control of the aeroplane.
>
> To address this potential unsafe condition, Diamond Aircraft Industries (DAI) issued Mandatory Service Bulletin (MSB) 42–126/MSB 42NG–066 and the corresponding Work Instruction (WI) MSB 42–126/WI–MSB 42NG–066 (single document), hereafter referred to as 'the applicable MSB' in this [EASA] AD, providing inspection and modification instructions.
>
> For the reason described above, this [EASA] AD requires modification of the flap control system by installing two spacers to replace a single long spacer, repetitive inspections of the flap bell crank, and, depending on findings, replacement of the flap bell crank with an improved part. Installation of an improved flap bell crank constitutes terminating action for the repetitive inspections required by this [EASA] AD.

The MCAI can be found in the AD docket on the Internet at *https://www.regulations.gov/document?D=FAA-2017-0638-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42–126 MSB/42NG–066, dated March 27, 2017 (single document), and Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document). In combination, this service information describes procedures for repetitively inspecting the flap bell crank for cracks, replacing the flap bell crank if cracks are found, and modification of the flap control system. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

Costs of Compliance

We estimate that this AD will affect 190 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the initial inspection requirement of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the initial inspection requirement of this AD on U.S. operators to be $64,000, or $340 per product.

We also estimate that it will take about 2 work-hours per product to

comply with the repetitive inspection requirement of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the repetitive inspection requirement of this AD on U.S. operators to be $32,300, or $170 per product.

In addition, we estimate that any necessary replacement action will take about 1 work-hour and require parts costing $430, for a cost of $515 per product. We have no way of determining the number of products that may need these actions.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

This AD is issued in accordance with authority delegated by the Executive Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to small airplanes and domestic business jet transport airplanes to the Director of the Policy and Innovation Division.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0638; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2017–18–10 Diamond Aircraft Industries GmbH: Amendment 39–19019; Docket No. FAA–2017–0638; Product Identifier 2017–CE–018–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective October 11, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Models DA 42, DA 42 M–NG, and DA 42 NG airplanes, serial numbers 42.004 through 42.427, 42.AC001 through 42.AC151, 42.M001 through 42.M026, 42.N001 through 42.N067, 42.N100 through 42.N129, 42.NC001 through 42.NC008, and 42.MN001 through 42.MN033, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as crack formation on the flap bell crank. We are issuing this AD to prevent failure of the flap bell crank, which could result in reduced control.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Inspect the flap bell crank, part number (P/N) D60–2757–11–00, and modify the flap control system by installing two spacers, P/N DS BU2–10–06–0065–C, where the flap actuator rod end bearing is connected to the flap bell crank, following the Instructions section in Diamond Aircraft Industries GmbH (DAI) Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document), as specified in DAI Mandatory Service Bulletin MSB 42–126/MSB 42NG–066, dated March 27, 2017 (single document), at whichever of the following compliance times occurs later:

(i) Before exceeding 600 hours time-in-service (TIS), and repetitively thereafter at intervals not to exceed 200 hours TIS.

(ii) Within the next 100 hours TIS after October 11, 2017 (the effective date of this AD) or within the next 6 months after October 11, 2017 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed 200 hours TIS.

(2) If any discrepancies are found during any inspection required in paragraph (f)(1) of this AD, before further flight, replace the flap bell crank with an improved part, P/N D60–2757–11–00_01, following the Instructions section in DAI Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document), as specified in DAI Mandatory Service Bulletin MSB 42–126/MSB 42NG–066, dated March 27, 2017 (single document). Installing P/N D60–2757–11–00_01 terminates the repetitive inspections required in paragraph (f)(1) of this AD. This installation as terminating action may be done in lieu of the inspections required in paragraph (f)(1) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane

Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, Small Airplane Standards Branch, FAA 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, Small Airplane Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or if there is a delegated foreign airworthiness authority Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2017–0074, dated April 28, 2017. You may examine the MCAI on the Internet at *https://www.regulations.gov/document?D=FAA-2017-0638-0002.*

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42–126/MSB 42NG–066, dated March 27, 2017 (single document).

(ii) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126/WI–MSB 42NG–066, dated March 27, 2017 (single document).

(3) For Diamond Aircraft Industries GmbH service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.*

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0638.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on August 28, 2017.

Melvin Johnson,

Deputy Director, Policy and Innovation Division, Aircraft Certification Service.

[FR Doc. 2017–18624 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2011–N–0921]

Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption: What You Need To Know About the Food and Drug Administration Regulation; Small Entity Compliance Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a guidance for industry entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption: What You Need to Know About the FDA Regulation: Small Entity Compliance Guide.'' The small entity compliance guide (SECG) is intended to help small entities comply with the final rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption.''

DATES: The announcement of the guidance is published in the **Federal Register** on September 6, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff Office, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2011–N–0921 for ''What You Need to Know About the FDA Regulation: Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption—Small Entity Compliance Guide.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff Office between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this

information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

See the **SUPPLEMENTARY INFORMATION** section for electronic access to the SECG.

FOR FURTHER INFORMATION CONTACT: Samir Assar, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1636.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 27, 2015 (80 FR 74353), we issued a final rule entitled ''Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption'' (the final rule) that establishes science-based minimum standards for the safe growing, harvesting, packing, and holding of produce, meaning fruits and vegetables grown for human consumption. The final rule, which is codified at 21 CFR part 112, became effective January 26, 2016, but has staggered compliance dates starting January 26, 2017.

We examined the economic implications of the final rule as required by the Regulatory Flexibility Act (5 U.S.C. 601–612) and determined that the final rule will have a significant economic impact on a substantial number of small entities. In compliance with section 212 of the Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121, as amended by Pub. L. 110–28), we are making available the SECG to reduce the burden of determining how to comply by further explaining and clarifying the actions that a small entity must take to comply with the rule.

We are issuing the SECG consistent with our good guidance practices regulation (21 CFR 10.115(c)(2)). The SECG represents the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This is not a significant regulatory action subject to Executive Order 12866 and does not impose any additional burden on regulated entities.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 112 have been approved under OMB control number 0910–0816.

III. Electronic Access

Persons with access to the Internet may obtain the SECG at either *https://www.fda.gov/FoodGuidances,* or *https://www.regulations.gov.* Use the FDA Web site listed in the previous sentence to find the most current version of the guidance.

Dated: August 30, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18811 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0807]

Drawbridge Operation Regulation; Newtown Creek, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Pulaski Bridge across Newtown Creek, mile 0.6 at New York City, New York. This deviation is necessary to facilitate planned repairs and will allow the owner to temporarily close the draw during weeknights for periods not to exceed five hours.

DATES: This deviation is effective from 12:01 a.m. on September 19, 2017 through 5 a.m. on December 30, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0807, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212–514–4334, email *James.M.Moore2@uscg.mil.*

SUPPLEMENTARY INFORMATION: The owner of the bridge, the New York City Department of Transportation, requested a temporary deviation in order to facilitate planned repairs of the bridge including replacement of the grease piping system as well as installation of new span lock shoes, steel shims and horizontal/vertical bolts.

The Pulaski Bridge across Newtown Creek, mile 0.6 at New York City, New York is a double-leaf bascule bridge with a vertical clearance of 39 feet at mean high water and 43 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.801(g)(1)–(2).

The temporary deviation will allow the Pulaski Bridge to remain closed each Tuesday, Wednesday, Thursday, Friday and Saturday from 12:01 a.m. to 5 a.m. beginning September 19, 2017 until December 30, 2017. The waterway is transited by tug/barge traffic of various sizes. Coordination with waterway users has indicated no objections to the proposed closure of the draw.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will not be able to open for emergencies. There is no alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so vessel operators may arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 31, 2017.

Christopher J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2017–18822 Filed 9–5–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0823]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, St. Louis, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters on the Upper Mississippi River (UMR) between mile marker (MM) 180 and MM 180.5. This temporary safety zone is necessary to protect persons and property from potential damage and safety hazards during a fireworks display on and over the navigable waterway. During the period of enforcement, entry into the safety zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or other designated representative.

DATES: This rule is effective from 7 p.m. through 9 p.m. on September 30, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0823 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2332, email *Sean.M.Peterson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM Broadcast Notice to Mariners
CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
LNM Local Notice to Mariners
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code
UMR Upper Mississippi River

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because it is impracticable. The Coast Guard did not receive the application until August 14, 2017. After full review of the details for the planned and locally advertised display, the Coast Guard has determined that action is needed to protect people and property from the safety hazards associated with the fireworks display on the Upper Mississippi River (UMR) near St. Louis, MO. We must establish this safety zone by September 30, 2017 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of the rule is contrary to the public interest as it would delay the effectiveness of the temporary safety zone needed to respond to potential related safety hazards until after the planned fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the fireworks display will be a safety concern before, during, and after the display. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 p.m. to 9 p.m. on September 30, 2017. The safety zone will cover all navigable waters between mile marker (MM) 180 and MM 180.5 on the UMR in St. Louis, MO. Exact times of the closures and any changes to the planned schedule will be communicated to mariners using Broadcast and Local Notice to Mariners. The safety zone is intended to ensure the safety of vessels and these navigable waters before, during and after the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This temporary final rule establishes a safety zone impacting a half mile area on the UMR for a limited time period of two hours. During the enforcement period, vessels are prohibited from entering into or remaining within the safety zone unless specifically authorized by the COTP or other designated representative. Based on the location, limited safety zone area, and short duration of the enforcement period, this rule does not pose a significant regulatory impact. Additionally, notice of the safety zone or any changes in the planned schedule will be made via Broadcast and Local Notice to Mariners. Entry into this safety zone may be requested from the COTP or other designated representative and will be considered on a case-by-case basis.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a

significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding these rules. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting two hours that will prohibit entry from mile 180 to 180.5 on the UMR on September 30, 2017. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0823 to read as follows:

§ 165.T08–0823 Safety Zone; Upper Mississippi River; St. Louis, MO.

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Mississippi River between mile marker (MM) 180 to MM 180.5, St. Louis, MO.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Upper Mississippi River (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in § 165.23 of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF–FM channel 16, or through Coast Guard Sector Upper Mississippi River at 314–269–2332. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Effective period.* This section will be effective from 7 p.m. through 9 p.m. on September 30, 2017.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the dates and times of enforcement.

Dated: August 31, 2017.

Scott A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2017–18861 Filed 9–5–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0821]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, St. Louis, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters on the Upper Mississippi River (UMR) between mile marker (MM) 179.2 and MM 180. This temporary safety zone is necessary to protect persons and property from potential damage and safety hazards during a fireworks display on and over the navigable waterway. During the period of enforcement, entry into the safety zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or other designated representative.

DATES: This rule is effective from 8:30 p.m. to 10 p.m. on September 23, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0821 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2332, email *Sean.M.Peterson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BNM Broadcast Notice to Mariners
CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
LNM Local Notice to Mariners
NPRM Notice of proposed rulemaking Section
U.S.C. United States Code
UMR Upper Mississippi River

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM with respect to this rule because it is impracticable. The Coast Guard did not receive the application until August 18, 2017. After full review of the details for the planned and locally advertised display, the Coast Guard determined action is needed to protect people and property from the safety hazards associated with the fireworks display on the Upper Mississippi River (UMR) near St. Louis, MO. We must establish this safety zone by September 23, 2017 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of the rule is contrary to the public interest as it would delay the effectiveness of the temporary safety zone needed to respond to potential related safety hazards until after the planned fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with the fireworks display will be a safety concern before, during, and after the display. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone from 8:30 p.m. to 10 p.m. on September 23, 2017. The safety zone will cover all navigable waters between mile marker (MM) 179.2 and MM 180 on the UMR in St. Louis, MO. Exact times of the closures and any changes to the planned schedule will be communicated to mariners using Broadcast and Local Notice to Mariners. The safety zone is intended to ensure the safety of vessels and these navigable waters before, during and after the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This temporary final rule establishes a safety zone impacting a less than one mile area on the UMR for a limited time period of one hour and a half. During the enforcement period, vessels are prohibited from entering into or remaining within the safety zone unless specifically authorized by the COTP or other designated representative. Based on the location, limited safety zone area, and short duration of the enforcement period, this rule does not pose a significant regulatory impact. Additionally, notice of the safety zone or any changes in the planned schedule will be made via Broadcast and Local Notice to Mariners. Entry into this safety zone may be requested from the COTP or other designated representative and will be considered on a case-by-case basis.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C.

605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding these rules. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one and a half hours that will prohibit entry from MM179.2 to MM 180 on the UMR on September 23, 2017. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0821 to read as follows:

§ 165.T08–0821 Safety Zone; Upper Mississippi River, St. Louis, MO.

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Mississippi River between mile marker (MM) 179.2 to MM 180, St. Louis, MO.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Upper Mississippi River (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in § 165.23 of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF–FM channel 16, or through Coast Guard Sector Upper Mississippi River at 314–269–2332. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Effective period.* This section will be effective from 8:30 p.m. through 10 p.m. on September 23, 2017.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the dates and times of enforcement.

Dated: August 31, 2017.

Scott A. Stoermer,

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2017–18863 Filed 9–5–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0138; A–1–FRL–9967–27–Region 1]

Air Plan Approval; New Hampshire; Rules for Open Burning and Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire on August 9, 2011, and July 23, 2013. These SIP revisions establish rules for open burning and establish emission standards and operating practices for incinerators and wood waste burners that are not regulated pursuant to federal incinerator standards. We are also approving revisions to the definitions of ''Incinerator'' and ''Wood Waste Burner,'' submitted by the State on July 23, 2013 and October 26, 2016, respectively. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective November 6, 2017, unless EPA receives adverse comments by October 6, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0138 at *http://www.regulations.gov,* or via email to *Arnold.Anne@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Planning Unit, Air Programs Branch (Mail Code OEP05–02), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts, 02109–3912; (617) 918–1684; *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose
II. EPA's Evaluation of New Hampshire's SIP Revisions
III. Final Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

I. Background and Purpose

On January 10, 2003, New Hampshire Department of Environmental Services (NH DES) submitted a SIP revision for Env-A 1000 (Prevention, Abatement and Control of Open Source Air Pollution). On August 9, 2011, NH DES submitted an updated version of this regulation. Because the 2011 submittal superseded the previous submission, the State withdrew the 2003 submittal on May 5, 2014. The withdrawal letter is included in the docket for this action.

On July 23, 2013, NH DES submitted Env-A 1900 (Incinerators and Wood Waste Burners) and Env-A 101.104 (definition of ''Incinerator'') to EPA for approval. Env-A 1900 is not currently part of the federally-approved New Hampshire SIP. The definition of the term ''Incinerator'' is currently part of the New Hampshire SIP, but is codified at Env-A 101.59 [1] and does not include a reference to ''wood-waste burners.'' The submitted definition of ''Incinerator'' adds ''wood-waste burners'' to the definition and is codified at Env-A 101.104. The current SIP-approved version of the definition of ''Incinerator'' (Env-A 101.59) will be replaced by the new definition of that term (Env-A 101.104) as a result of this approval.

A definition of ''Wood Waste Burner'' is currently part of the New Hampshire SIP, but is codified as Env-A 101.95 and explicitly excludes incinerators. On October 26, 2016, NH DES submitted a revision of the definition of ''Wood Waste Burner'' (Env-A 101.219) to EPA for approval. This revised definition does not exclude incinerators. The current SIP-approved version of the definition of ''Wood Waste Burner'' (Env-A 101.95) will be replaced by the new definition of that term (Env-A 101.219) as a result of this approval.

The version of Env-A 1900 (Incinerators and Wood Waste Burners) submitted to EPA by the State included an affirmative defense provision for malfunction, which is defined as a sudden and unavoidable breakdown of process or control equipment. On April 13, 2016, NH DES sent a letter to EPA withdrawing the affirmative defense provision in Env-A 1900 (*i.e.,* 1902.02). In addition, an earlier SIP submission of Env-A 1900 had included an exception to the 20-percent visible emissions limit that would have allowed these emissions to be exceeded for one period of 6 continuous minutes in any 60-minute period during startup, shutdown, or malfunction. However, NH DES removed this exception from the July 23, 2013 submittal.

After reviewing New Hampshire's SIP submittals for Env-A 1000 and 1900, as well as the submitted definitions of ''incinerator'' (Env-A 101.104) and ''waste wood burner'' (101.219) and the letter withdrawing the affirmative defense provision in Env-A 1900, EPA is approving all of the SIP revisions with the exception of the withdrawn portion relating to affirmative defenses.

II. EPA's Evaluation of New Hampshire's SIP Revisions

On August 9, 2011, NH DES submitted a revision of Env-A 1000 for approval into the New Hampshire SIP. This revision establishes requirements for open burning, fugitive dust and firefighter instruction and training activities. Specifically, Env-A 1000 sets general open-burning requirements, authorizes certain materials to be burned in the open, and identifies materials that are prohibited from being burned in the open. The version of Env-A 1000 that was originally approved into the SIP in 1994 (59 FR 42766) identifies the types of burning that are generally allowed by the State, such as outdoor grills, burning for agricultural or forestry improvement or firefighter training, as well as a list of generally prohibited burning activities, such as burning of rubbish, brush, demolition debris or tires, or burning at any solid waste disposal area. The revised SIP-submitted regulation includes all these

[1] This appears to be an error because there are two different terms numbered 101.59 in Env-A 101, and the term Incinerator is listed after term numbered 48 and before term numbered 50.

permissible and prohibited types of burning. In addition, the revision adds definitions of key terms used in the regulation, such as ''demolition debris,'' ''salvaging operation,'' and ''untreated wood,'' as well as references to applicable state statutes. The revised regulation also adds sections on (1) precautions to prevent and control fugitive dust, and (2) provisions to minimize air pollution from open burning for firefighter instruction and training purposes.

New Hampshire's revision to Env-A 1000 removes two references to ''nuisance'' in the current SIP, which was approved in 1994. EPA believes that the State's regulation is approvable under the Clean Air Act (CAA) because the term ''nuisance'' in Env-A 1000 is a broad concept that could be applied to prohibit activities that bear no reasonable connection to the National Ambient Air Quality Standards (NAAQS) and related air-quality goals of the CAA. The fact that something may cause a nuisance does not necessarily equate to a condition that would interfere with attainment or maintenance of the NAAQS. The concept of a nuisance is too vague for EPA to rely on as a NAAQS attainment or maintenance strategy. See, for example, analogous instances in which EPA has removed from SIPs certain regulations that prohibit odors (61 FR 47058), or that contain a general prohibition against air pollution (63 FR 65557).

New Hampshire's revision to Env-A 1000 removes a reference to NAAQS nonattainment areas for particulates (*i.e.,* Particulate Matter or PM) that appears in the current SIP-approved version of Env-A 1000. Specifically, SIP-approved Env-A 1001.02 allowed for certain types of open burning if: (1) Not prohibited by local ordinance or officials having jurisdiction, such as state forest fire wardens, and (2) where the particular area has not been designated nonattainment in relation to the NAAQS for PM. Under Env-A 1000, such burning was allowed in NAAQS nonattainment areas for PM (when not prohibited by local ordinance or officials having jurisdiction) if written authorization had been obtained by the NH DES. EPA believes that the version of Env-A 1000 we are approving today is approvable, notwithstanding the absence of references to nonattainment areas for NAAQS as a limiting condition on certain types of burning because there have not been any areas of New Hampshire designated as not attaining a PM NAAQS. Thus, the version of Env-A 1000 we are approving today is functionally equivalent to the existing SIP-approved version and the latter's references to PM nonattainment areas are unnecessary.

The submitted Env-A 1000 retains existing provisions currently in the New Hampshire SIP, except for the term ''nuisance'' and references to PM nonattainment areas as discussed above. EPA has determined that the SIP revision meets the requirements of section 110(l) of the CAA in that it will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA. Further, the additional requirements in the revised regulation will benefit public health and the environment by controlling PM emissions from open burning and fugitive dust. Consequently, EPA is approving Env-A 1000 into the New Hampshire SIP.

On July 23, 2013, NH DES submitted Env-A 1900 (Incinerators and Wood Waste Burners) and a revision of Env-A 101.104 (definition of ''Incinerator'') for approval into the New Hampshire SIP.

Env-A 101.104 defines ''Incinerator'' as ''a device engineered to burn or oxidize solid, semi-solid, liquid, or gaseous waste for the primary purpose of volume reduction, disposal, or chemical destruction, leaving little or no combustible material. Such devices include, but are not limited to, heat recovery systems and wood waste burners.'' This definition is the same as that which is currently in the New Hampshire SIP (approved on August 14, 1992; 57 FR 36603), except that the definition has been amended to include ''wood waste burners.''

Also, on October 26, 2016, NH DES submitted Env-A 101.219, a revised definition of ''Wood Waste Burner'' to EPA. This revised definition no longer excludes incinerators.

Thus, more sources are now included in the revised definition of ''Incinerator'' and are subject to regulation. The definition meets the anti-back sliding requirements of section 110(l) of the CAA in that it will not interfere with any applicable requirement concerning attainment and reasonable further progress, or with any other applicable requirement of the CAA. Therefore, EPA is approving the revised definition into the New Hampshire SIP. We also note that the current SIP-approved definition of the term ''Incinerator'' is codified as Env-A 101.59. The new codification, Env-A 101.104, and revised definition we are approving in this action will replace the old definition and old codification at Env-A 101.59.

Env-A 101.219 establishes the definition of ''Wood Waste Burner'' as ''any device such as burners used to dispose of wood waste by burning, and which are commonly known as teepees, wigwams, truncated cones or silos.'' NH DES considers the term ''wood waste'' to be consistent with EPA's definition of ''clean cellulosic biomass'' as defined at 40 CFR 241.2, and, therefore, does not consider wood waste to be a solid waste. As a consequence, wood waste burners are not specifically regulated by NH DES pursuant to federal incinerator or waste combustor standards in New Hampshire's Env-A 3300 and Env-A 4300. Thus, wood waste burners are regulated under Env-A 1900.[2]

Env-A 1900 establishes emission standards and operating practices for incinerators and wood waste burners that are not regulated pursuant to federal incinerator standards. Particulate emissions standards in Env-A 1900 for incinerators would not allow the incinerator to emit more than 0.675 grams per dry standard cubic meter (g/dscm), equivalent to 0.3 grains per dry standard cubic foot (grains/dscf), corrected to 7 percent oxygen (O_2). The standard for allowable visible emissions for incinerators is 20 percent opacity for any continuous 6-minute period. In addition, Env-A 1900 includes requirements for posting instructions for incinerator operation and for training of incinerator operators. This rule will benefit public health and the environment by controlling PM emissions and visible emissions from incinerators that are not regulated under federal incinerator rules. Therefore, EPA is approving Env-A 1900 into the New Hampshire SIP.

III. Final Action

EPA is approving and incorporating two regulations into the New Hampshire SIP. The two regulations include revised Env-A 1000 (Prevention, Abatement and Control of Open Source Air Pollution) submitted by the State of New Hampshire on August 9, 2011, effective on May 1, 2011; and Env-A 1900 (Incinerators and Wood Waste Burners) submitted by the State on July 23, 2013, effective April 23, 2013, except for the withdrawn affirmative defense provision. The revised version of Env-A 1000 that we are approving into the SIP will replace the existing SIP-approved version of Env-A 1000.

In addition, EPA is approving a revised definition of ''Incinerator'' (Env-

[2] EPA email from Felice Janelle (NH DES) to Alison Simcox (EPA, Region 1), June 23, 2016, ''RE: SIP revisions for Env-A 101.104 and 1900.'' This correspondence is included in the docket for today's action.

A 101.104), submitted by the State on July 23, 2013, effective April 23, 2013, which replaces the definition of ''Incinerator'' currently in the New Hampshire SIP (numbered Env-A 101.59). We are also approving a revised definition of ''Wood Waste Burner'' (Env-A 101.219), submitted by the State on October 26, 2016, effective January 14, 2005, which replaces the definition of ''Wood Waste Burner'' currently in the New Hampshire SIP (numbered Env-A 101.95). Thus, the SIP at Env-A 101.59 and at Env-A 101.95 will read ''[reserved].''

New Hampshire organizes Env-A 101 (Definitions) alphabetically, and also assigns a codification number, in sequential order, to each defined term. Because the State's SIP submissions did not include the entirety of Env-A 100, and the State has added other definitions to Env-A 100 over time (not all of which are SIP-approved), our approval of the two definitions in this action will result in the numbered codification assigned to the defined terms being out of numerical sequence in the SIP. However, the two defined terms will still be in alphabetical order. As noted earlier, the affirmative defense provision, which NH DES withdrew from its July 23, 2013 SIP submittal, is not included in this approval action and is contained in state law only, codified at Env-A 1902.02.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective November 6, 2017 without further notice unless the Agency receives relevant adverse comments by October 6, 2017.

If the EPA receives such comments, then EPA will publish an action withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 6, 2017 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference the New Hampshire Code of Administrative Rules stated in section III. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov,* and/or at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 6, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for

judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 9, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart EE—New Hampshire

■ 2. In § 52.1520(c), the table is amended by adding four entries for ''Env-A 100'' after the entry ''Env-A 100; Organizational Rules: Definitions''; revising the entry for ''Env-A 1000''; and by adding an entry for ''Env-A 1900'' in numerical order to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
*	*	*	*	*
Env-A 100	Definition of ''Incinerator''	04/29/2003	09/06/2017 [Insert **Federal Register** citation].	Remove Part Env-A 101.59, definition of ''Incinerator'' and replace with ''[reserved].''
Env-A 100	Definition of ''Wood Waste Burner''	04/29/2003	09/06/2017 [Insert **Federal Register** citation].	Remove Part Env-A 101.95, definition of ''Wood Waste Burner'' and replace with ''[reserved].''
Env-A 100	Definition of ''Incinerator''	04/23/2013	09/06/2017 [Insert **Federal Register** citation].	Approve Part Env-A 101.104, definition of ''Incinerator.''
Env-A 100	Definition of ''Wood Waste Burner''	01/14/2005	[Insert **Federal Register** date of publication]. [Insert **Federal Register** citation].	Approve Part Env-A 101.219, definition of ''Wood Waste Burner.''
*	*	*	*	*
Env-A 1000	Control of Open Burning	05/01/2011	09/06/2017 [Insert **Federal Register** citation].	Approve Part Env-A 1000 ''Prevention, Abatement and Control of Open Source Air Pollution.''
*	*	*	*	*
Env-A 1900	Emission Standards and Operating Practices for Incinerators	04/23/2013	09/06/2017 [Insert **Federal Register** citation].	Approve Part Env-A 1900 ''Incinerators and Wood Waste Burners.''
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2017–18774 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0316; FRL–9966–82–Region 9]

Approval and Promulgation of State Implementation Plans; Nevada; Regional Haze Progress Report; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting a final rule that appeared in the **Federal Register** on August 8, 2017. That rule approved the ''Nevada Regional Haze 5-Year Progress Report'' as a revision to the Nevada Regional Haze State Implementation Plan (SIP) and re-codified our prior approval of the Nevada Regional Haze SIP.

DATES: This action is effective on September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Krishna Viswanathan, EPA, Region IX, Air Division, AIR–2, 75 Hawthorne Street, San Francisco, CA 94105. Krishna Viswanathan may be reached at (520) 999–7880 or *viswanathan.krishna@epa.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–16491 appearing on page 37024 in the **Federal Register** of Tuesday, August 8, 2017, the following correction is made:

§ 52.1470 [Corrected]

1. On page 37024, in the third column, in amendment 2.b. to § 52.1470, the instruction ''Adding, under the heading ''Air Quality Implementation Plan for the State of Nevada'' two entries before the entry ''Small Business Stationary Source Technical and Environmental Compliance Assistance Program'' '' is corrected to read ''Adding two entries under the heading ''Air Quality Implementation Plan for the State of Nevada'' before the second instance of the entry ''Small Business Stationary Source Technical and Environmental Compliance Assistance Program''.''

Dated: August 22, 2017.

Debbie Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–18769 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 17–757]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the FM Table of Allotments, of the Commission's rules, by reinstating certain vacant FM allotments. These FM allotments are considered vacant because of the cancellation of the associated authorizations and licenses, or the dismissal of long-form auction applications. These vacant FM allotments have previously undergone notice and comment rule making. Reinstatement of the vacant allotments is merely a ministerial action to effectuate licensing procedures. Therefore, we find for good cause that further notice and comment are unnecessary.

DATES: Effective September 6, 2017.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order,* adopted August 10, 2017 and released August 11, 2017. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will not send a copy of the *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the *Order* is a ministerial action.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309, 310, 334, 336 and 339.

■ 2. In § 73.202(b), amend the Table of FM Allotments as follows:

■ a. Add Leupp, Channel 293C1; remove Channel 232C3 and add in its place Channel 234C1 at Overgaard; add Parker, Channel 257C2 and Paulden, Channel 228C3; remove Channel 258C2 and add in its place Channel 259C2 at Snowflake; and add Tusayan, Channel 222C1, under Arizona;

■ b. Add Strong, Channel 296C3, under Arkansas;

■ c. Add Alturas, Channel 277C, Boonville, Channel 300A, Cedarville, Channel 238A, Ft. Bragg, Channel 253C1; and remove Channel 269A and add in its place Channel 258A at Portola, under California;

■ d. Add Battlement Mesa, Channel 275C3, Dinosaur, Channel 262C1, Eckley, Channel 257C1, Hugo, Channel 222A, and Walden, Channel 226A, under Colorado;

■ e. Add Plains, Channel 290A, under Georgia;

■ f. Remove Channel 252A and add in its place Channel 291A at Abingdon, under Illinois;

■ g. Remove Channel 242A and add in its place Channel 222A at Florien, under Louisiana;

■ h. Add Lake Isabella, Channel 255A, and Onekama, Channel 227C3, under Michigan;

■ i. Add Grand Marais, Channel 245C3, under Minnesota;

■ j. Add Bourbon, Channel 231A and Eminence, Channel 281A, under Missouri;

■ k. Add Cut Bank, Channel 265C2, under Montana;

■ l. Add Bayard, Channel 251A, under Nebraska;

■ m. Add Jefferson, Channel 247A, under New Hampshire;

■ n. Add Des Moines, Channel 287C and Skyline-Ganipa, Channel 240A, under New Mexico;

■ o. Add Narrowsburg, Channel 275A, under New York;

■ p. Add Medina, Channel 222C1 and Sarles, Channel 290C1, under North Dakota;

■ q. Remove Channel 285C2 and add in its place Channel 293C2 at Arnett; add Cheyenne, Channel 247C2, Coalgate, Channel 242A, Covington, Channel 290A, Savanna, Channel 275A, and Wayne, Channel 266A, under Oklahoma;

■ r. Add Diamond Lake, Channel 251A, Huntington, Channel 228C1, and Vale, Channel 288C, under Oregon;

■ s. Add Edgemont, Channel 289C1, under South Dakota;

■ t. Add Albany, Channel 255A, Benjamin, Channel 237C3, Big Lake, Channels 246A, 252C2, 281C1, and 296C3, Channel 289A at Cotulla, Crystal Beach, Channel 268A, Dalhart, Channel 261C2, Dilley, Channel 291A, Channel 283A at Encino, Freer, Channel 288A; remove Channel 275A and add in its place Channel 277A at Goree; add Hamlin, Channel 283C2; Channel 297A at Knox City; Marquez, Channel 296A; remove Channels 221C2 and 227C3 and add in their place Channels 244C2 and 276C3 at Matador; add Channel 237C3 at McCamey; remove Channel 267C3 and add in its place Channel 298C3 at McLean; remove Channels 242A and 265C2 and add in their place Channel 265A and 292A at Menard; add Channel 224A at Mullin, Olney, Channel 282A,

Channel 287A at Premont, Roscoe, Channel 228A, Channel 255A at San Isidro, Sanger, Channel 281C3, Trinity, Channel 251A; remove Channel 244C2 and add in its place Channel 221C2 at Turkey; add Wellington, Channels 248C3 and 253C3, Westbrook, Channel 272A, under Texas;

■ u. Add Paragonah, Channel 258A, under Utah;

■ v. Add Hardwick, Channel 290A and West Rutland, Channel 298A, under Vermont;

■ w. Remove Channel 225A and add in its place Channel 258A at New Holstein, under Wisconsin; and

■ x. Remove Channel 235A and add in its place Channel 235C3 at Bairoil; add Basin, Channel 299C1; remove Channel 242C2 and add in its place Channel 242A at Dubois; add Lusk, Channel 242A, Pine Bluffs, Channel 287A, and Wheatland, Channel 286A, under Wyoming.

§ 73.202 Table of Allotments.

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(b) *Table of FM Allotments.*

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ARIZONA

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Leupp	293C1
Overgaard	234C1
Parker	257C2
Paulden	228C3

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Snowflake	259C2

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Tusayan	222C1

ARKANSAS

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Strong	296C3

CALIFORNIA

Alturas	277C

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Boonville	300A

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Cedarville	238A

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Ft. Bragg	253B1

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Portola	258A

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COLORADO

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Battlement Mesa	275C3
Dinosaur	262C1

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Eckley	257C1
Hugo	222A

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Walden	226A

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GEORGIA

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Plains	290A

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ILLINOIS

Abingdon	291A

* * * * *

LOUISIANA

* * * * *

Florien	222A

* * * * *

MICHIGAN

* * * * *

Lake Isabella	255A

* * * * *

Onekama	227C3

MINNESOTA

* * * * *

Grand Marais	245C3

* * * * *

MISSOURI

Bourbon	231A

* * * * *

Eminence	281A

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MONTANA

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Cut Bank	265C2

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NEBRASKA

Bayard	251A

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NEW HAMPSHIRE

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Jefferson	247A

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NEW MEXICO

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Des Moines	287C

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Skyline-Ganipa	240A

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NEW YORK

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Narrowsburg	275A

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NORTH DAKOTA

Medina	222C1
Sarles	290C1

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OKLAHOMA

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Arnett	293C2
Cheyenne	247C2

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Coalgate	242A

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Covington	290A

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Savanna	275A

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Wayne	266A

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OREGON

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Diamond Lake	251A
Huntington	228C1

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Vale	288C

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SOUTH DAKOTA

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Edgemont	289C1

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TEXAS

Albany	255A

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Benjamin	237C3

Big Lake	246A, 252C2, 281C1, 296C3
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Cotulla	264A, 289A
* * * * *	
Crystal Beach	268A
* * * * *	
Dalhart	261C2
* * * * *	
Dilley	291A
* * * * *	
Encino	250A, 283A
* * * * *	
Freer	288A
* * * * *	
Goree	277A
* * * * *	
Hamlin	283C2
* * * * *	
Knox City	293A, 297A
* * * * *	
Marquez	296A
* * * * *	
Matador	244C2, 276C3
* * * * *	
McCamey	233C3, 237C3
McLean	298C3
* * * * *	
Menard	265A, 292A
* * * * *	
Mullin	224A, 277A
* * * * *	
Olney	282A
* * * * *	
Premont	264C3, 287A
* * * * *	
Roscoe	228A
* * * * *	
San Isidro	255A, 278A
* * * * *	
Sanger	281C3
* * * * *	
Trinity	251A
Turkey	221C2, 269A
* * * * *	
Wellington	248C2, 253C3
* * * * *	
Westbrook	272A
* * * * *	
UTAH	
* * * * *	
Paragonah	258A
* * * * *	
VERMONT	
* * * * *	
Hardwick	290A
West Rutland	298A
* * * * *	
WISCONSIN	
* * * * *	
New Holstein	258A
* * * * *	
WYOMING	
* * * * *	
Bairoil	235C3
Basin	299C1
Dubois	242A
* * * * *	
Lusk	242A
* * * * *	
Pine Bluffs	287A
Wheatland	286A
* * * * *	

* * * * *

[FR Doc. 2017–18831 Filed 9–5–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2017–0026; 4500090024]

RIN 1018–BC64

Endangered and Threatened Wildlife and Plants; Technical Correction for Tonkin Snub-Nosed Monkey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, are making a technical correction to remove the endangered Tonkin snub-nosed monkey (*Rhinopithecus avunculus*) from certain regulations that apply to certain threatened primates. These regulations apply only to threatened species, and Tonkin snub-nosed monkeys were reclassified as an endangered species in 1990. Therefore, the provisions of the regulations for threatened primates do not apply to this species. We are correcting this error in the Code of Federal Regulations.

DATES: This action is effective September 6, 2017.

ADDRESSES: This final rule and a list of the references cited is available on the Internet at *http://www.regulations.gov* at Docket No. FWS–HQ–ES–2017–0026.

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service; MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2171. If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: The purpose of this final rule is to notify the public that we are removing the Tonkin snub-nosed langur from regulations in title 50 of the Code of Federal Regulations (CFR) that pertain to certain primates that are listed as threatened species under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). The List of Endangered and Threatened Wildlife (List) under the Act is found at 50 CFR 17.11(h). The regulations that are the focus of this final rule are found at 50 CFR 17.40(c). We are removing the Tonkin snub-nosed langur (*Pygathrix [Rhinopithecus] avunculus*) from the list of primates in § 17.40(c)(1). (For reasons explained below in Taxonomy, the Tonkin snub-nosed langur (*Pygathrix [Rhinopithecus] avunculus*) is older nomenclature for the now generally accepted common and scientific names: Tonkin snub-nosed monkey (*Rhinopithecus avunculus*). In this document, we use the currently accepted common name Tonkin snub-nosed monkey.)

On January 9, 2016, we received a petition, dated the same day from People for the Ethical Treatment of Animals Foundation (PETA), requesting in part that Tonkin snub-nosed monkey be removed from the regulations at § 17.40(c), which pertain to threatened primates, because this species is listed as an endangered species under the Act at 50 CFR 17.11(h).

Background

Regulations such as those at 50 CFR 17.40(c) are promulgated under section 4(d) of the Act and are referred to as ''4(d) rules.'' These rules apply only to threatened species. Petitions to amend 4(d) rules are petitions under the Administrative Procedure Act (APA; 5 U.S.C. 553(e)) and are considered in accordance with 50 CFR 424.10; 424.14(a), (j), and Departmental regulations at 43 CFR part 14. A final rule published in 1990 reclassified all Tonkin snub-nosed monkeys from threatened to endangered (55 FR 39414, September 27, 1990), so the provisions of the 4(d) rule can no longer be applied to this endangered species.

Accordingly, we are publishing this final rule without a prior proposal because this is a noncontroversial action that does not alter the regulatory protections afforded to this species and is a technical correction necessary to bring our regulations into conformity with the Act.

Previous Federal Actions

In 1976, as part of a decision to list 26 species of primates as threatened or endangered under the Act, the Service proposed to list Tonkin snub-nosed monkeys as a threatened species (41 FR 16466, April 19, 1976) and subsequently finalized the listing (41 FR 45990, October 19, 1976). In the same rulemaking, Tonkin snub-nosed monkeys were included in a new 4(d) rule for threatened primates at 50 CFR 17.40(c).

In 1990, all Tonkin snub-nosed monkeys were reclassified from threatened to endangered (55 FR 39414, September 27, 1990).

In both the proposed rule and final rule reclassifying the species from threatened to endangered status (55 FR 1486, January 16, 1990; 55 FR 39414, September 27, 1990), the Service indicated through the informational text ''NA'' (not applicable) in the ''Special rules'' column of the List at 50 CFR 17.11(h) that there are no 4(d) rules for that particular species. However, we failed to make the corresponding change to 50 CFR 17.40(c) to reflect the fact that the provisions there no longer applied to the now-endangered Tonkin snub-nosed monkey.

Taxonomy

The terms monkey and langur are both used interchangeably in the common name for this species. However, the International Union for Conservation of Nature (IUCN) Red List, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Integrated Taxonomic Information System (ITIS), and the List at 50 CFR 17.11(h) all use the term ''monkey'' for this species.

The Tonkin snub-nosed monkey is currently listed in § 17.40(c)(1) as ''Tonkin snub-nosed langur (*Pygathrix [Rhinopithecus] avunculus*).'' The snub-nosed monkeys of the genus *Rhinopithecus* were formerly listed as a subgenus of *Pygathrix,* but *Rhinopithecus* was elevated to the full genus level in 2001(Groves 2001, p. 287). This taxonomic change is now widely accepted in the scientific community, including CITES (CITES 2017, p. 5), ITIS (ITIS 2017, unpaginated), and IUCN Red List (IUCN 2017, unpaginated). Therefore, in this final rule we refer to the species as Tonkin snub-nosed monkey (*Rhinopithecus avunculus*), which is also how the species is presented in the List at 50 CFR 17.11(h).

Administrative Procedure

As explained above, this rulemaking is necessary to bring our regulations into compliance with the Act. Therefore, under these circumstances, we have determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are impractical and unnecessary. Public opportunity for comment is simply not required when an agency amends a regulation to remove regulatory provisions that are not consistent with law. Such action is ministerial in nature and allows for no discretion on the part of the agency. Thus, public comment could not inform this process in any meaningful way. We have further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective upon publication, which is to comply with the Act as soon as practicable.

List of References Cited

A list of the references cited in this final rule is provided in Docket No. FWS–HQ–ES–2017–0026 at *http://www.regulations.gov.*

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

§ 17.40 [Amended]

■ 2. Amend § 17.40(c)(1) by:
■ a. Adding the word ''and'' before ''purple-faced langur (*Presbytis senex*)''; and
■ b. Removing the phrase ''; and Tonkin snub-nosed langur (*Pygathrix [Rhinopithecus] avunculus*)''.

Dated: August 30, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–18866 Filed 9–5–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 090206140–91081–03 and 120405260–4258–02]

RIN 0648–XF673

Authorization of Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers in Texas and Portions of Louisiana

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; determination of catastrophic conditions.

SUMMARY: In accordance with the regulations implementing the individual fishing quota (IFQ) and Federal dealer reporting programs specific to the commercial reef fish and coastal migratory pelagic (CMP) fisheries in the Gulf of Mexico (Gulf), the Regional Administrator, Southeast Region, NMFS (RA) has determined that Hurricane Harvey has caused catastrophic conditions in coastal and adjacent counties in the state of Texas, and Cameron and Vermilion parishes in Louisiana. Consistent with those regulations, the RA has authorized any dealer in the affected area who does not have access to electronic reporting to delay reporting of trip tickets to NOAA Fisheries from September 1, 2017, through October 15, 2017. The RA has

also authorized IFQ participants within this affected area to use paper-based forms, if necessary, for basic required administrative functions, *e.g.,* landing transactions, from September 1, 2017, through October 15, 2017. This temporary rule announcing the determination of catastrophic conditions and allowance of alternative methods for completing required IFQ and other dealer reporting administrative functions is intended to facilitate continuation of IFQ and dealer reporting operations during the period of catastrophic conditions. NMFS will continue to monitor and evaluate conditions. A subsequent **Federal Register** document will be published, if needed.

DATES: The RA is authorizing applicable Federal dealers reporting within this affected area to use revised reporting methods from September 1, 2017, through October 15, 2017.

FOR FURTHER INFORMATION CONTACT: IFQ Customer Service, telephone: 866–425–7627, fax: 727–824–5308, email: *SER-IFQ.Support@noaa.gov.* For federal dealer reporting, Fisheries Monitoring Branch, telephone: 305–361–4581.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Council. The fishery for CMP fish (king mackerel, Spanish mackerel, and cobia) is managed under the FMP for the CMP Resources of the Gulf of Mexico and South Atlantic. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490, April 9, 2014). Amendment 26 to the FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447, November 22, 2006). Amendment 29 to the FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732, August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) and the dealer reporting requirements (50 CFR 622.5(c)) require that Federal dealers and IFQ participants have access to a computer and Internet and that they conduct administrative functions associated with dealer reporting and the IFQ program, *e.g.,* landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

Hurricane Harvey made landfall between Port Aransas and Port O'Connor, Texas, as a Category 4 hurricane on August 25, 2017. Strong winds and flooding from this hurricane impacted communities throughout coastal and eastern Texas and southwest Louisiana, resulting in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in all coastal and adjacent counties of Texas and in Cameron and Vermilion Parishes, Louisiana. Through this temporary rule, the RA is authorizing Federal dealers to delay reporting of trip tickets to NOAA Fisheries and IFQ participants within this affected area to use paper-based forms, from September 1, 2017, through October 15, 2017. NMFS will provide additional notification to affected participants via NOAA weather radio, Fishery Bulletins, and other appropriate means. NOAA Fisheries will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions.

Dealers may delay electronic reporting of trip tickets to NOAA Fisheries during catastrophic conditions. Dealers are to report all landings to NOAA Fisheries as soon as possible. Assistance for Federal dealers in effected areas is available at the Fisheries Monitoring Branch, 1–305–361–4581. NMFS previously provided IFQ dealers with the necessary paper forms (sequentially coded) and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all participants, and participants in the affected area are encouraged to continue using these systems, if accessible.

The administrative program functions available to participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the Catch Share Support line, 1–866–425–7627 Monday through Friday, between 8 a.m. and 4:30 p.m. eastern time.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of reef fish and CMP species managed under the Gulf IFQ Programs and the Federal dealer reporting programs, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.5(c), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the rules implementing the Gulf IFQ programs and Federal dealer reporting have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The rules also authorize the RA to provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist and that paper forms may be utilized in the affected area and that Federal dealers may submit delayed reports. Additionally, delaying this temporary rule to provide prior notice and opportunity for public comment would be contrary to the public interest because affected participants are still fishing for and receiving these species in the affected area and need a means of completing their landing transactions. With the power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Harvey, numerous businesses are unable to complete landings transactions and dealer reports electronically. In order to continue with their businesses, they need to be aware they can still complete

landing transactions and dealer reports using the paper forms.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 1, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18963 Filed 9–1–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF653

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure; request for comments.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2017 total allowable catch apportioned to catcher/processors using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2017, through 1200 hours, A.l.t., November 1, 2017. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 2017.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2016–0127, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0127,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

NMFS closed directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA under § 679.20(d)(1)(iii) on January 1, 2017, pursuant to the final 2017 and 2018 harvest specifications for groundfish of the Gulf of Alaska (82 FR 12032, February 27, 2017).

NMFS has determined that as of August 29, 2017, approximately 970 metric tons of Pacific cod remain in the 2017 Pacific cod apportionment for catcher/processors using trawl gear in the Central Regulatory Area of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2017 total allowable catch (TAC) of Pacific cod in the Central Regulatory Area of the GOA, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 29, 2017.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 15, 2017.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 30, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18818 Filed 8–31–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF655

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2017 total allowable catch (TAC) of Atka mackerel in this area allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 31, 2017, through 2400 hrs, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2017 TAC of Atka mackerel, in the CAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 1,600 metric tons by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the CAI by vessels participating in the BSAI trawl limited access fishery.

After the effective dates of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Atka mackerel directed fishery in the CAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 30, 2017. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18830 Filed 8–31–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF675

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure; request for comments.

SUMMARY: NMFS is opening directed fishing for Pacific cod by catcher vessels less than 6feet (18.3 meters) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2017 total allowable catch of Pacific cod allocated to catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2017, through 2400 hours, A.l.t., December 31, 2017. Comments must be received at the following address no later than 4:30 p.m., A.l.t., *September 21, 2017.*

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2016–0140, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0140,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post the comments for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI under § 679.20(d)(1)(iii) on February 7, 2017 (82 FR 9530, February 7, 2017).

NMFS has determined that as of August 30, 2017, approximately 1,175 metric tons of Pacific cod remain in the 2017 Pacific cod apportionment for catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2017 total allowable catch (TAC) of Pacific cod in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 30, 2017.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet LOA using hook-and-line or pot gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 21, 2017.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2017.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18862 Filed 8–31–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 171
Wednesday, September 6, 2017

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2017–0863]

Airworthiness Criteria: Glider Design Criteria for Alexander Schleicher GmbH & Co. Models ASG 32 & ASG 32 Mi Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed design criteria.

SUMMARY: This notice announces the availability of and requests comments on the proposed design criteria for the Alexander Schleicher GmbH & Co. models ASG 32 & ASG 32 Mi gliders. The administrator finds the proposed design criteria, which make up the certification basis for the ASG 32 & ASG 32 Mi gliders, acceptable.These final design criteria will be published in the **Federal Register**.

DATES: Comments must be received on or before October 6, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0863 using any of the following methods:

☐ *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

☐ *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.

☐ *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

☐ *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Rutherford, AIR–692, Federal Aviation Administration, Policy & Innovation Division, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, MO 64106, telephone (816) 329–4165, facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the design criteria, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments received on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these airworthiness design criteria based on received comments.

Background

On August 23, 2016, Alexander Schleicher GmbH & Co. submitted an application for type validation of the ASG 32 glider and ASG 32 Mi powered glider in accordance with the Technical Implementation Procedures for Airworthiness and Environmental Certification Between the FAA and the European Aviation Safety Agency (EASA), Revision 5, dated September 15, 2015. Both models will be documented on a single type certificate. The model ASG 32 is a two-seat, mid-wing, glider constructed from carbon-, glass-, and synthetic-fiber reinforced plastic and features a 65.6 foot (20 meter) wingspan with flaps, double-panel Schempp-Hirth airbrakes on the upper wing surface, winglets, water ballast tanks in the wing, and optional tanks in the fuselage. The glider also features a retractable landing gear with hydraulic disc brakes and a conventional T-type tailplane. The model ASG 32 Mi adds a retractable engine and fixed pitch propeller mounted in the center fuselage behind the cockpit which allows the glider to be self-launching. Both glider versions have a maximum weight of 1,874 pounds (850 kilograms). The EASA type certificated the ASG 32 and ASG 32 Mi gliders under Type Certificate Number (No.) EASA.A.599 on February 11, 2016. The associated EASA Type Certificate Data Sheet (TCDS) No. EASA.A.599 defined the certification basis Alexander Schleicher GmbH & Co. submitted to the FAA for review and acceptance.

The applicable requirements for glider certification in the United States can be found in FAA Advisory Circular (AC) 21.17–2A, ''Type Certification—Fixed-Wing Gliders (Sailplanes), Including Powered Gliders,'' dated February 10, 1993. AC 21.17–2A has been the basis for certification of gliders and powered gliders in the United States for many years. AC 21.17–2A states that applicants may utilize the Joint Aviation Requirements (JAR)–22, ''Sailplanes and Powered Sailplanes,'' or another accepted airworthiness criteria, or a combination of both, as the accepted means for showing compliance for glider type certification.

Type Certification Basis

The applicant proposed a Certification Basis based on EASA Certification Specification (CS)–22, ''Sailplanes and Powered Sailplanes'', amendment 2, dated March 05, 2009. In addition to CS–22 requirements, the applicant proposed to comply with other requirements from the certification basis referenced in EASA TCDS No. EASA.A.599, including special conditions and equivalent safety findings.

The Proposed Design Criteria

Applicable Airworthiness Criteria under § 21.17(b).

Based on the Special Class provisions of § 21.17(b), the following airworthiness requirements form the FAA Certification Basis for this design:

1. 14 CFR part 21, effective February 1, 1965, including amendments 21–1 through 21–98 as applicable.
2. EASA CS–22, amendment 2, dated March 05, 2009.
3. EASA Special Condition No. SC–A.22.1.01, ''Increase in maximum mass for sailplanes and powered sailplanes.''
4. EASA Equivalent Safety Finding to CS–22.335(f)—Alternate method to calculate the Design Maximum Speed (V_D) using the Organisation Scientifique et Technique Internationale du Vol á Voile (OSTIV), Airworthiness Standards for Sailplanes, dated July 1997.
5. EASA Equivalent Safety Finding to CS–22.585(a)—Alternate basis for lower towing loads and subsequent lower lauching hook attachment loads.
6. ''Standards for Structural Substantiation of Sailplane and Powered Sailplane Parts Consisting of Glass or Carbon Fiber Reinforced Plastics,'' Luftfahrt-Bundesamt (LBA) document no. I4–FVK/91, issued July 1991.
7. ''Guideline for the analysis of the electrical system for powered sailplanes,'' LBA document no. I334–MS 92, issued September 15, 1992.
8. Operations allowed: VFR-Day
9. EASA Type Certificate Data Sheet No. EASA.A.599, Issue 02, dated March 17, 2016.
10. Date of application for FAA Type Certificate: August 23, 2016.

Issued in Kansas City, Missouri on August 28, 2017.

William Schinstock,

Acting Manager, Small Airplane Standards Branch, Aircraft Certification Service.

[FR Doc. 2017–18846 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2017–0552]

RIN 1625–AA08

Special Local Regulation; Atlantic Ocean, Ft. Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a recurring special local regulation for navigable waters of the Atlantic Ocean in the vicinity of the Fort Lauderdale for the Grand Prix of the Seas. The Fort Lauderdale Grand Prix of the Seas race course is located east of South Beach Park and North of the Port Everglades inlet. Approximately one hundred high-speed personal watercraft are expected to participate in this annual event. The special local regulation is needed to protect personnel, vessels, and the marine environment from potential hazards during the race event. All vessels and persons in the regulated area must follow the direction of Coast Guard personnel, law enforcement, and race officials. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before October 6, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0552 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Mara J. Brown, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone (305) 535–4317, email *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On June 7, 2017, the company Powerboat P1–USA, LLC notified the Coast Guard that it will be conducting the Ft. Lauderdale Grand Prix of the Seas annually. This event will occur yearly on one weekend (Friday, Saturday, and Sunday) in November. The race course will be located directly east of South Beach Park in Ft. Lauderdale, FL. The special local regulation is intended to protect personnel, vessels, and the marine environment. The Captain of the Port Miami (COTP) has determined that potential hazards associated with the high speeds of the participants during the races would be a safety concern for anyone who would enter the race area.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the established race area, marked with buoys. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

III. Discussion of Proposed Rule

The COTP proposes to establish a special local regulation for this event occurring annually on one weekend (Friday, Saturday, and Sunday) in November. The special local regulation would cover all navigable waters within the established race area, marked with buoys, approximately one mile north of the Port Everglades inlet. The duration of the zone is intended to protect personnel, vessels, and the marine environment in the navigable waters Fort Lauderdale Grand Prix of the Seas race event. Only those vessels participating in the event may enter, transit through, anchor in, or remain within the regulated area, and all vessels and persons in the regulated area must follow the direction of Coast Guard personnel, law enforcement, and race officials. The proposed regulatory text appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and time-of-year of the special local regulation. Vessel traffic will be able to safely transit around this regulated area, which will impact a small designated area of the Atlantic Ocean in Fort Lauderdale,

FL, directly adjacent to the shore, for three days.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation lasting three four days that will impact a small area in the vicinity of the Port Everglades Inlet. It is categorically excluded from further review under paragraph 34(h) of Figure 201 of the Commandant Instructions. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice.*

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.723 to read as follows:

§ 100.723 Special Local Regulation; Fort Lauderdale Grand Prix of the Seas; Fort Lauderdale, FL.

(a) *Location.* The following regulated area is established as a special local regulation. All navigable waters contained within an imaginary line connecting the following points: beginning at Point 1 in position 26°6′21″ N., 080°5′51″ W.; thence west to Point 2 in position 26°6′21″ N., 080°6′13″ W.; thence north to Point 3 in position 26°6′57″ N., 080°6′13″ W.; thence east to Point 4 in position 26°6′57″ N., 080°5′52″ W., thence back to origin at point 1. All coordinates are North American Datum 1983.

(b) *Definition.* The following definitions apply to this section:

(1) The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and Local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated areas.

(2) The term ''Patrol Commander'' means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector Commander to enforce these regulations.

(3) The term ''spectators'' means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.*

(1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, remain within or transit in excess of wake speed within any of the regulated area may contact the Captain of the Port Miami by telephone at (305) 535–8701, or a designated representative via VHF–FM radio on channel 16 to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will use all appropriate means to notify the public in advance of an event of the enforcement of these regulations to include publishing a Notice of Enforcement in the **Federal Register** and through the local Notice to Mariners and Broadcast Notice to Mariners.

(d) *Enforcement date.* This section will be enforced annually on a weekend (Friday, Saturday and Sunday) in the month of November.

Dated: August 22, 2017.

J.H.D. Solomon,

Captain, U.S. Coast Guard, Acting Captain of the Port Miami.

[FR Doc. 2017–18829 Filed 9–5–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 9

RIN 2900–AP98

Electronic Submission of Certain Servicemembers' Group Life Insurance, Family Servicemembers' Group Life Insurance, and Veterans' Group Life Insurance Forms

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to add a regulation governing the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs to provide that certain SGLI, Family SGLI (FSGLI) and VGLI applications, elections, and beneficiary designations required by statute to be ''written'' or ''in writing'' would include those submitted via an agency approved electronic means that are digitally or electronically signed.

DATES: Comments must be received on or before November 6, 2017.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to: Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026 (this is not a toll-free telephone number). Comments should indicate that they are submitted in response to ''RIN 2900–AP98—Electronic Submission of Certain Servicemembers' Group Life Insurance, Family Servicemembers' Group Life Insurance, and Veterans' Group Life Insurance Forms.''

Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment (this is not a toll-free telephone number). In addition, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ruth Berkheimer, Insurance Specialist, Department of Veterans Affairs Insurance Center (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4275 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Several statutes regarding entitlement to SGLI, FSGLI, and VGLI require a member or an insured to take action ''in writing'' or to submit a ''written'' application or request. *E.g.,* 38 U.S.C. 1967(c), 1970(a), and 1977(a)(3). For example, under 38 U.S.C. 1967(a)(2) and (a)(3)(B), a member of a uniformed service on active duty, active duty for training, or inactive duty training scheduled in advance by a competent authority and certain Ready Reservists may ''elect in writing'' not to be insured under SGLI, to decline FSGLI coverage for a spouse, or to be insured or insure a spouse for less than the statutory maximum amounts of insurance coverage.

Until recently, members have utilized a paper version of SGLV 8286, Servicemembers' Group Life Insurance (SGLI) Election and Certificate, to make changes to their SGLI coverage amount and to designate beneficiaries to receive the insurance proceeds upon their death and a paper version of SGLV 8286A, Spouse Coverage Election and Certificate, to make changes to their spousal coverage. The VA Insurance Service, however, partnered with the Department of Defense to develop the SGLI Online Enrollment System (SOES), an electronic application system that allows members to make electronic updates and changes to their SGLI and FSGLI coverage amounts and their SGLI beneficiary designations 24 hours a day, 7 days a week. In addition, this electronic system helps to eliminate common errors made by members when completing the paper forms. While the electronic system is the primary means for insured members to manage their SGLI and FSGLI elections, a member may use the paper forms in emergent situations when the member cannot access the electronic system.

In addition to SOES, veterans are currently able to apply for VGLI, reinstate their VGLI, or increase the amount of VGLI by completing an online application through a Web site managed by the Office of Servicemembers' Group Life Insurance (OSGLI), *https://giosgli.prudential.com/osgli/web/OSGLIMenu.html,* as well as by mailing a paper copy of SGLV 8714,

Application for Veterans' Group Life Insurance to OSGLI.

In light of this modernized processing of SGLI and VGLI, VA proposes to expressly allow for electronic submission of certain SGLI and VGLI applications, forms, and beneficiary designations by adding section 9.22 to part 9 of title 38, Code of Federal Regulations. New section 9.22(a)(1) would define the terms ''in writing'' and ''written'' for purposes of certain statutes in chapter 19, subchapter III, of title 38, United States Code, to mean an intentional recording of words in visual form and to include hard-copy documents containing a person's name or mark written or made by that person and electronic applications and forms submitted through a VA approved electronic means that include an electronic or digital signature that identifies and authenticates a particular person as the source of the electronic message and indicates such person's approval of the information contained in the electronic document.

Section 9.22(a)(2) would provide that application or election forms meeting the requirements of new paragraph (a)(1) will satisfy the statutory requirement that such forms be ''written'' or ''in writing'' for purposes of: (1) Declining SGLI for the member or FSGLI for the member's insurable spouse; (2) insuring the member under SGLI or the member's spouse under FSGLI in an amount less than the maximum amount of such insurance; (3) restoring or increasing coverage under SGLI for the member or under FSGLI for the member's insurable spouse; (4) designating one or more beneficiaries for the member's SGLI or insured's VGLI; and (5) increasing the amount of coverage under VGLI. This would allow members to submit such applications or elections by mail, hand delivery, or electronic means approved by the Secretary.

Section 9.22(b) would state that applications or forms satisfying the definition in paragraph (a)(1) may be submitted for purposes of applying for VGLI and reinstating lapsed VGLI coverage.

These regulations are consistent with the Government Paperwork Elimination Act (GPEA), Public Law 105–277, tit. XVII, 112 Stat. 2681–749 (codified at 44 U.S.C. 3504 note), which requires Federal agencies to accept electronic signatures and to allow for electronic submission, maintenance, or disclosure of information as a substitute for paper, when it is practicable for agencies to do so. See also 38 U.S.C. 118 (VA must submit reports to Congress in electronic format) and 5103(a)(1) (VA may provide notice of information and evidence necessary to substantiate claim via electronic communication). GPEA also bars electronic signatures and electronic records from being denied legal effect, validity, or enforceability because they are in electronic form. Public Law 105–277, §1707, 112 Stat. 2681–751.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm* by following the link for ''VA Regulations Published.''

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule would directly affect only individuals and would not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

List of Subjects in Part 9

Life insurance, Military personnel, Veterans.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on July 25, 2017, for publication.

Dated: July 25, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, VA proposes to amend 38 CFR part 9 as set forth below:

PART 9—SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 38 U.S.C. 501, 1965–1980A, unless otherwise noted.

■ 2. By adding the following section to read as follows:

§ 9.22 Submission of certain applications and forms affecting entitlement to Servicemembers' Group Life Insurance and Veterans' Group Life Insurance

(a)(1) Definition. For purposes of this section, the terms *in writing* and *written* mean an intentional recording of words in visual form and include:

(A) Hard-copy applications and forms containing a person's name or mark written or made by that person; and

(B) applications and forms submitted through a VA approved electronic means that include an electronic or digital signature that identifies and authenticates a particular person as the source of the electronic message and indicates such person's approval of the information submitted through such means.

(2) With regard to the following actions, applications or forms that satisfy the definition in paragraph (a)(1) will be deemed to satisfy the requirement in the referenced statutes that an application, election, or beneficiary designation be ''in writing'' or ''written'':

(A) Decline Servicemembers' Group Life Insurance for the member or Family Servicemembers' Group Life Insurance for the member's insurable spouse (38 U.S.C. 1967(a)(2)(A) or (B));

(B) Insure the member under Servicemembers' Group Life Insurance or the member's spouse under Family Servicemembers' Group Life Insurance in an amount less than the maximum amount of such insurance (38 U.S.C. 1967(a)(3)(B));

(C) Restore or increase coverage under Servicemembers' Group Life Insurance for the member or under Family Servicemembers' Group Life Insurance for the member's insurable spouse (38 U.S.C. 1967(c));

(D) Designate one or more beneficiaries for the member's Servicemembers' Group Life Insurance or former member's Veterans' Group Life Insurance (38 U.S.C. 1970(a)); and

(E) Increase the amount of coverage under Veterans' Group Life Insurance (38 U.S.C. 1977(a)(3)).

(b) Applications or forms that satisfy the definition in paragraph (a)(1) may be utilized to—

(1) apply for Veterans' Group Life Insurance; and

(2) reinstate Veterans' Group Life Insurance.

[FR Doc. 2017–18677 Filed 9–5–17; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0138; A–1–FRL–9967–26–Region 1]

Air Plan Approval; New Hampshire; Rules for Open Burning and Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of New Hampshire on August 9, 2011, and July 23, 2013. These SIP revisions establish rules for open burning and establish emission standards and operating practices for incinerators and wood waste burners that are not regulated pursuant to federal incinerator standards. We are also proposing to approve revisions to the definitions of ''Incinerator'' and ''Wood Waste Burner,'' submitted by the State on July 23, 2013 and October 26, 2016, respectively. This action will have a beneficial effect on air quality. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 6, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0138 at *http://www.regulations.gov,* or via email to *Arnold.Anne@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, tel. (617) 918–1684, email *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 19, 2017.

Deborah A. Szaro,

Acting Regional Administrator, EPA New England.

[FR Doc. 2017–18775 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–0085; FRL–9967–12-Region 4]

Air Plan Approval; NC; Open Burning and Miscellaneous Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is reopening the comment period for a proposed rulemaking notice published in the **Federal Register** on July 18, 2017, which accompanied a direct final rulemaking published on the same date. In the July 18, 2017, action, EPA proposed to approve several revisions to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina through the North Carolina Department of Environmental Quality (formerly the North Carolina Department of Environment and Natural Resources), Division of Air Quality, on October 14, 2004, March 24, 2006, and January 31, 2008. The revisions include changes to several regulations and the addition of a new section to the Exclusionary Rules of the North Carolina SIP. It was brought to EPA's attention that it inadvertently did not include the October 14, 2004, and January 31, 2008, state submittals and related materials in the electronic docket at the time of the publication of the proposed rulemaking notice, and the agency was asked to extend the comment period. The materials have been added to the docket, and EPA is reopening the comment period for an additional 15 days.

DATES: Comments on the proposed rule published July 18, 2017 (82 FR 32782) must be received on or before September 21, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2007–0085 at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Sean Lakeman or Nacosta C. Ward, *Air Regulatory Management Section,* Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Lakeman can be reached via telephone at (404) 562–9043 or via electronic mail at *lakeman.sean@epa.gov.* Ms. Ward can be reached via telephone at (404) 562–9140, or via electronic mail at *ward.nacosta@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA published a proposed rulemaking on July 18, 2017 (82 FR 32782), which accompanied a direct final rulemaking published on the same date (82 FR 32767). The proposed revisions include changes to several regulations and the addition of a new section to the Exclusionary Rules of the North Carolina SIP. It was brought to EPA's attention that it inadvertently did not include the October 14, 2004 and January 31, 2008, state submittals and related materials in the electronic docket at the time of the publication of the proposed rulemaking action, and the agency was asked to extend the comment period. The materials have been added to the docket, and EPA is reopening the comment period for an additional 15 days.

Dated: August 21, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–18767 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 82, No. 171

Wednesday, September 6, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0008]

Public Health Information System (PHIS) Export Component Country Implementation

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing and requesting comment on its plan to implement the Public Health Information System (PHIS) Export Component. In response to stakeholder feedback and to ensure sufficient testing and outreach, FSIS is extending the implementation date of the PHIS Export Component to June 29, 2018. FSIS will first implement the PHIS Export Component with a limited number of foreign countries and will expand implementation to add countries incrementally.

DATES: Submit comments on or before October 6, 2017.

ADDRESSES: FSIS invites interested persons to submit comments on issues discussed and outlined in this notice. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov/.* Follow the on-line instructions at that site for submitting comments.

Mail, CD–ROMs: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2017–0008. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 164–A, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Deputy Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495, or by Fax: (202) 720–2025.

Background

On June 29, 2016, the Food Safety and Inspection Service (FSIS) published the final rule, ''Electronic Export Application and Certification Charge; Flexibility in the Requirements for Export Inspection Marks, Devices, and Certificates; Egg Products Export Certification'' (81 FR 42225). The rule can be found online at *https://www.fsis.usda.gov/wps/wcm/connect/3538b05e-151c-4d82-8664-096452a32778/2009-0026.pdf?MOD=AJPERES,* and FSIS notified the World Trade Organization of the rule (G/TBT/N/USA/678/Add.1). The final rule provided for an electronic export application and certification system—the Public Health Information System (PHIS) Export Component—in the meat, poultry, and egg product regulations.

When the PHIS Export Component is incrementally deployed to specific countries, as outlined below, it will provide the following improvements:

- FSIS will electronically inventory and track export certificate information, which will enable FSIS Inspection Program Personnel (IPP) to review exact images (*i.e.,* portable document format (PDF)) of export certification documents prior to approval;
- Exporters will be able to electronically submit, track, and manage applications for export certificates, including capabilities to bundle multiple applications into a single file;
- Foreign governments will be able to view all export certificates for product intended for their country issued by FSIS in PHIS, as a digital image, through an FSIS-controlled log-in feature, Foreign Country Log-in (FCL).

New Implementation Date

The final export rule stated that FSIS would begin implementing the PHIS Export Component on June 29, 2017. However, to ensure sufficient testing and outreach to all stakeholders, FSIS is delaying the implementation date of the PHIS Export Component to June 29, 2018. On March 27, 2017, FSIS held a PHIS Export Component technical webinar to share information and solicit comments on implementation plans. During and after the webinar, FSIS received requests from industry to delay implementation of the system, to ensure that all stakeholders are prepared and the system is performing effectively. After considering these requests, FSIS agreed to extend the implementation date for an additional year (June 29, 2018). More information from the March 27 webinar, including audio and transcripts, can be found on FSIS's PHIS Export Component Web page at *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/phis-export-component.*

Country Rollout Schedule

On June 29, 2018, FSIS will implement the PHIS Export Component with a limited number of countries, and then gradually expand implementation to additional countries. Countries will be added incrementally in groups. This Notice announces the first group FSIS intends to include (June 2018; see below for the Group 1 country list). FSIS will announce future groups in advance on the PHIS Export Component Web page at *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/phis-export-component.* Initially, only meat (including Siluriformes) and poultry products will be included in the PHIS Export Component; egg products and casings will be added at a later date, which FSIS will announce in advance through the **Federal Register,** FSIS Constituent Update, or other appropriate means.

Beginning on June 29, 2018, FSIS intends to include Australia, New

Zealand, and the United Arab Emirates (UAE) in Group 1 of the PHIS Export Component. These countries are familiar with technological changes to certification systems; use English; and, in combination, import a moderate amount of the major product classes under FSIS's jurisdiction, giving FSIS sufficient data to assess system performance. Selection of these countries reflects FSIS's consideration of public comments received on topics presented at an April 2, 2015, conference call, which recommended implementing one or more smaller volume, relatively simple certification countries before moving to higher volume, complex certification countries. FSIS welcomes public comment on the selection of these three countries for initial implementation, including feedback on the feasibility of accommodating these countries' certification requirements through the PHIS Export Component process.

In Group 1, FSIS is also including 16 countries that do not maintain meat or poultry requirements in the FSIS Export Library: Afghanistan, Andorra, Bahamas, Bolivia, Burundi, Cape Verde, Cook Islands, Ethiopia, Gambia, Guinea, Liberia, Mozambique, Paraguay, San Marino, Tanzania and Uganda. Additional countries without export library requirements will be added to each group as the Export Component rollout proceeds. FSIS may accelerate or decelerate the schedule, depending on the system's performance. Based on FSIS's experience with implementing other components of PHIS, unforeseen implementation issues may arise, such as the system's performance, training concerns, or questions from importing countries or FSIS IPP. In the first country group, FSIS will be working with foreign governments on a moderate amount of product, rather than on high product volumes that could more severely and unnecessarily disrupt commerce with major trading partners. Starting with low or mid-range volume countries will allow FSIS to build a foundation for more efficient, subsequent implementation with higher-volume countries that have more complex certification processes, for which effective outreach and implementation of the PHIS Export Component will be critical.

Application for Export Certificate

FSIS regulations (9 CFR 322.2 and 381.105) require that the FSIS Application for Export Certificate (FSIS Form 9060–6) be submitted to obtain an FSIS Export Certificate of Wholesomeness (FSIS Form 9060–5). FSIS Form 9060–6 provides FSIS with important data necessary to certify and facilitate the export of product.

Beginning on June 29, 2018, applicants for export certification to countries included in the Export Component (*e.g.* Australia, New Zealand, UAE, and 16 listed countries) will complete either (1) an electronic export application in PHIS (*i.e.* individual application or batch of applications), or (2) send a paper export application (FSIS Form 9060–6) and any required supplemental documents to the FSIS proxy (Urbandale, IA) for data entry into PHIS. Applicants who choose to use paper applications can email or mail the completed application, and any additional information required by the foreign country, to FSIS for entry into PHIS at:

Email: FSCExport.Recon@fsis.usda.gov.

Mail: U.S. Department of Agriculture, Food Safety and Inspection Service, FMD, Financial Services Center, P.O. Box 9205, Des Moines, IA 50306–9948.

Applicants who choose to use paper applications can only use fax to send the completed application (FSIS Form 9060–6) to FSIS when no additional supplemental documents (*e.g.* letterhead certificates) are required by the importing country in the FSIS Export Library. Faxes should be sent to: 1–844–378–1048.

As is done currently, in order for FSIS to be able to issue a certificate stating that a shipment meets the country's requirements, applicants are required to submit complete documentation, based on requirements found in the FSIS Export Library, to receive the requested certification.

Regardless of the method the applicant chooses to submit the application, the end result of the export certification process and IPP verification activities will be the same. Starting no sooner than January 1, 2019, FSIS will assess fees for electronic export certificate applications, as is discussed below.

The application process will not change how reimbursable services are charged by FSIS IPP, as described in the 12,000 Series of FSIS Directives on Voluntary Inspection (*https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/directives/12000-series*). When requested, FSIS provides reimbursable inspection services to accommodate business needs, such as obtaining export certifications necessary to meet requirements of importing countries that are not imposed by FSIS, and are in addition to FSIS requirements.

In PHIS, export applicants can withdraw or cancel an export application at any point in the approval process prior to IPP approving the export application in PHIS. Once an application is withdrawn or cancelled by the applicant in PHIS, that application is no longer valid for export and is removed from the PHIS user interface. Applicants will still be charged for all applications whether they are processed or withdrawn.

For all countries not yet included in the Export Component, applicants should follow current export application procedures.

Of note, to make the application (FSIS Form 9060–6) more user-friendly, prepare for its use in both a paper and electronic format, better align with commonly accepted international (Codex Alimentarius, CAC/GL 38–2001) guidance and ensure importing country requirements are met, FSIS has revised the data elements within FSIS form 9060–6: Application for Export Certificate. Industry is not to use this revised application until June 29, 2018. Furthermore, FSIS is eliminating a previously approved form associated with the 9060–6—the Product List (FSIS Form 9080–4). Certain limited data elements related to product information will be moved from FSIS Form 9080–4 to FSIS Form 9060–6 (HACCP Category; Maturity Less than 30 months (beef only); Frozen/Shelf-Stable).

Electronic Export Application Fee

The PHIS Export Component will provide new service options to exporters, enabling them to electronically submit, track, and manage their export applications. Therefore, to cover the costs of providing the electronic application and certification service, FSIS established a formula-based fee for electronic export applications submitted in PHIS, under the authority of the Agricultural Marketing Act (7 U.S.C. 1622(h)) and implementing FSIS regulations (9 CFR 350.7; 350.3(b); 362.2(b); 362.5).

The final export rule stated that the formula-based fee for electronic export applications would apply on June 29, 2017; however, to ensure system performance and the accuracy of estimates in the fee formula, FSIS will not begin assessing the fee prior to January 1, 2019, and will recalculate the fee based on the best available estimates for costs and number of applications. The updated fee will be published in the **Federal Register** no later than 30 days prior to its assessment.

As stated in the final export rule, the final electronic export application fee formula is as follows:

$$\frac{\text{Labor Cost (Technical Support + Export Library Maintenance) + IT Cost (Ongoing Operations and Maintenance + eAuthentication)}}{\text{Number of Export Applications}}$$

The formula elements, summarized below, are the sum of labor and IT costs, divided by the total number of export applications.

Labor Costs

○ *Technical Support:* This cost includes Service Desk support such as resolving user problems with the application services, identifying web browser compatibility issues, and fees from establishments and facilities that request this service.

○ *Export Library Maintenance:* This cost includes funding two full-time employees to provide Export Library functions, includes the writing, testing, and maintenance of complex business rules for evaluating the export application that is submitted into the PHIS export system. The business rules allow the system to determine product eligibility before the system accepts the application and transmits it to inspection program personnel. The business rules also facilitate the type of export certification required by the foreign government that will be issued when the application is accepted.

IT Cost

○ *Ongoing Operations & Maintenance:* This cost includes improvements and necessary repairs to keep the system responsive to users' needs, including modifying the application based on changes in requirements or user needs, adding functionality based on foreign regulatory changes, upkeep of the system to ensure a secure operating environment that protects the data, and costs to operate the system components. This cost may increase in future years based on General Services Administration (GSA) schedule increases in labor rates and other factors.

○ *Level 2 eAuthentication:* This cost is currently zero, but may increase in future years based on a variety of factors, including the number of export business customers annually.

Number of Export Applications: This estimate is the approximate total number of export applications submitted to FSIS annually.

FSIS Export Certificate of Wholesomeness

On June 29, 2018, the PHIS Export Component will have the ability to digitally sign export certificates (FSIS Form 9060–5) from the FSIS certifying official. This feature will provide an additional layer of security for the exporter and the importing country's government. At the time the signature is applied, PHIS will execute security checks to validate that the digital signature is that of the FSIS certifying official. The digital signature will include the printed name of the FSIS certifying official, and the time and date that the signature was applied. This feature, along with other security features of the PHIS export component, such as FSIS-controlled security paper on which certificates will be printed, will provide maximum assurance that export certificates are authentic.

FSIS may also provide certificates signed by FSIS certifying officials with an ink signature, as is done currently. The export certificate, signed either digitally or with an ink signature, will be printed from PHIS on security paper (8½″ × 11″), and given to the exporter. FSIS will scan copies of all signed certification documents (*e.g.* 9060–5, supplemental letterhead certificates) into PHIS before releasing the signed original certification documents to the exporter. Unless specified that a digital signature is required or allowed in the FSIS Export Library, FSIS certifying officials will sign all export documents with an ink signature, as is done currently. Any supplemental documents, such as letterhead certificates, will be printed on standard 8½″ × 11″ white copy paper.

Of note, FSIS has made limited revisions to data elements in the FSIS Form 9060–5 to better align with commonly accepted international (Codex Alimentarius, CAC/GL 38–2001) guidance and to ensure importing country requirements are met. When additional space for products or statements is necessary with a 9060–5, PHIS will also generate FSIS Form 9060–5A (product continuation page), which is an existing addendum that FSIS has aligned with the revised 9060–5; and FSIS Form 9060–5B (remarks continuation page), a new addendum to provide more space for additional attestations, when required by the importing country. These updated certification documents will be implemented with the PHIS Export Component, on June 29, 2018.

Country-specific letterhead certificates, and other required supplemental documentation, will not be produced by PHIS. Applicants will complete any required supplemental documents (*e.g.* letterhead certificates) and upload them to the electronic application in PHIS, or include the supplemental documents with the export package they send to the FSIS proxy.

Batch Processing

The PHIS Export Component will allow exporters to bundle multiple applications, including any supplemental documents (*e.g.* letterhead certificates) required by the importing country, into a single file, known as batch processing. To maintain system functionality, FSIS reserves the right to place limits on batch processing as needed or required by PHIS. FSIS intends to test batch processing with industry users before implementation to ensure functionality. Upon implementation, FSIS will provide help desk support for batch processing issues (see FSIS's PHIS Export Component Web page at *https://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/exporting-products/phis-export-component* for updates).

Level 2 eAuthentication/Foreign Country Log-In

When the PHIS Export Component is implemented, foreign government officials will have the capability to view all export certificates issued by FSIS in PHIS, as a digital image, for product destined for the government's country, through an FSIS-controlled log-in feature (Foreign Country Log-in, FCL). In addition, the original certificates will be printed on paper and will arrive with the shipment, whether FSIS inspection personnel apply the signature digitally or with ink. Importing government officials will be able to compare digital certificate copies in the FCL with the

original certification documents arriving at the country's port of entry, to verify that the digital certificate copies align with the original certificates arriving with the shipment. A Level 2 eAuthentication account is necessary to access the FCL. An eAuthentication account is the way for a user to interact with USDA Web site portals and applications using a verified identity for each User ID and profile. Prior to implementation of the PHIS Export Component, FSIS will provide further guidance on this process.

USDA Export Stamp

The USDA export stamp bears the export certificate number, and is used to link the consignment to the corresponding export certificate. Beginning on the applicability date of June 29, 2018, FSIS is changing the number of digits in the serial number that appears on both the export stamp and the corresponding export certificate from six to seven numbers. Use of an alternative, alpha-numeric unique identifier in place of the USDA export stamp will be implemented with the PHIS Export Component on June 29, 2018.

eCert

In the future, FSIS also intends to support electronic export certification (eCert) in PHIS. eCert is the government-to-government transmission of certification data and is the electronic equivalent of a paper certificate. When developed and implemented, electronic export certification will allow FSIS to transfer certification data directly to the foreign government's competent authority's certification system.

Group 1 (June 29, 2018)

- Export Library:
  1. Australia
  2. New Zealand
  3. UAE
- Non-Export Library:
  1. Afghanistan
  2. Andorra
  3. Bahamas
  4. Bolivia
  5. Burundi
  6. Cape Verde
  7. Cook Islands
  8. Ethiopia
  9. Gambia
  10. Guinea
  11. Liberia
  12. Mozambique
  13. Paraguay
  14. San Marino
  15. Tanzania
  16. Uganda

USDA Nondiscrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/federal-register.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on: August 31, 2017.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2017–18848 Filed 9–5–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0028]

Availability of FSIS Compliance Guideline for Minimizing the Risk of Shiga Toxin-Producing Escherichia Coli (STEC) and Salmonella in Raw Beef (Including Veal) Processing Operations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and request for comment.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of and requesting comments on the updated compliance guideline for small and very small businesses on reducing STEC and *Salmonella* in beef and veal operations.

The new guideline will assist small and very small beef (including veal) processing establishments understand and comply with the regulatory requirements associated with controlling STEC and *Salmonella* in raw non-intact beef products and beef products intended for non-intact use. The guideline also includes information for establishments and retail stores on developing and maintaining records associated with the production of ground beef.

DATES: Submit Comments on or before November 6, 2017.

ADDRESSES: A downloadable version of the compliance guideline is available to view and print at *https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index* once copies of the guideline have been published.

FSIS invites interested persons to submit comments on this guidance. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov/.* Follow the on-line instructions at that site for submitting comments.

Mail, including CD–ROMs: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name, FSIS, and document title: FSIS Compliance Guideline for Minimizing the Risk of Shiga toxin-producing Escherichia coli (STEC) and *Salmonella* in Raw Beef (including Veal) Processing Operations 2017. Comments received will be made available to the public and posted without change, including any personal information, at *http://www.regulations.gov.*

Docket: For access to background documents or to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 164–A, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Roberta Wagner, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

STEC and *Salmonella* are pathogens that are associated with foodborne illness from consumption of non-intact beef products (*e.g.,* ground beef, mechanically tenderized steaks). Although the percent positive rates of STEC and *Salmonella* have decreased, outbreaks and illnesses continue to occur from these products (*https://www.cdc.gov/ecoli/2016-outbreaks.html*).

Raw non-intact beef products present a significant public health risk because they are frequently consumed after preparation (*e.g.,* cooking hamburger to a rare or medium rare state) that does not destroy STEC that has been introduced below the product's surface. Given the low infectious dose of STEC associated with foodborne disease outbreaks and the very severe consequences of an STEC infection, including serious, life-threatening human illnesses (hemorrhagic colitis and hemolytic uremic syndrome), raw non-intact beef products and those beef products intended for non-intact use are adulterated within the meaning of the Federal Meat Inspection Act when contaminated with STEC unless further processed to destroy this pathogen (64 FR 2803). *Salmonella* does not present the same severe health consequences as STEC, and FSIS does not have a zero tolerance for *Salmonella* in raw non-intact beef products. However, because STEC and *Salmonella* are hazards that have historically occurred in the production of non-intact beef products, establishments that produce these products or products intended for non-intact use must conduct a hazard analysis and determine if these pathogens need to be addressed by its Hazard Analysis and Critical Control Point (HACCP) system. FSIS is making available the updated compliance guideline to assist establishments that produce raw non-intact beef products in designing a HACCP system to prevent, control, and reduce STEC and *Salmonella* to acceptable levels in these products.

The guideline helps establishments understand the adulterant status of STEC in beef products, how the product's intended use impacts the hazard analysis, and to develop ongoing verification measures to demonstrate that the HACCP system is functioning as intended to reduce STEC to below detectable levels. In addition, the guideline provides updated information for establishments responding to STEC positive results to strengthen their food safety systems so that additional positive results do not occur in the product. While the guideline focuses primarily on STEC policy, the procedures described in this document to reduce STEC will also assist establishments in reducing *Salmonella.*

FSIS is also providing information in the updated guidance to assist federal establishments and retail facilities to develop and maintain grinding records as required by the final rule, *Records To Be Kept By Official Establishments and Retail Stores That May Grind Raw Beef Products* (80 FR 79231).

This guideline incorporates all of the above policy updates and includes the most current Agency thinking, and combines and replaces information from the following previously issued guidance documents:

(1) Draft Guidance for Small and Very Small Establishments on Sampling Beef Products for Escherichia coli O157:H7 (August 12, 2008); and

(2) Sanitation Guidance for Beef Grinders (January 2012).

The target audiences for this compliance guideline are small and very small establishments in support of the Small Business Administration's initiative to provide such establishments with compliance assistance under the Small Business Regulatory Flexibility Act (SBRFA). However, all FSIS regulated beef establishments may be able to apply the recommendations in this guideline.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Constituent Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW.,

Washington, DC 20250–9410, Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done, at Washington, DC, August 31, 2017.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2017–18847 Filed 9–5–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2017–0021]

International Standard-Setting Activities

AGENCY: Office of Food Safety, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act. This notice also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers Codex activities during the time periods from June 1, 2016, to May 31, 2017, and June 1, 2017, to May 31, 2018, seeks comments on standards under consideration and recommendations for new standards.

ADDRESSES: FSIS invites interested persons to submit their comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at the Web site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Mail to the U.S. Department of Agriculture (USDA), FSIS, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.
- *Hand- or courier-delivered items:* Deliver to OPPD, RIMS, Docket Clearance Unit, Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700.

Instructions: All items submitted by mail or email are to include the Agency name and docket number FSIS–2017–0021. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information to *http://www.regulations.gov.*

Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify the committee(s) in your comments and submit a copy of your comments to the delegate from that particular committee.

Docket: For access to background documents or comments received, visit the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700, between 8:00 a.m. and 4:30 p.m., Monday through Friday. A complete list of U.S. delegates and alternate delegates can be found in Attachment 2 of this notice.

FOR FURTHER INFORMATION CONTACT: Mary Frances Lowe, United States Manager for Codex Alimentarius, U.S. Department of Agriculture, Office of Food Safety, South Agriculture Building, 1400 Independence Avenue SW., Room 4861, Washington, DC 20250–3700; *Telephone:* (202) 205–7760; *Fax:* (202) 720–3157; *Email: USCodex@fsis.usda.gov.*

For information pertaining to particular committees, contact the delegate of that committee. Documents pertaining to Codex and specific committee agendas are accessible via the Internet at *http://www.codexalimentarius.org/meetings-reports/en/.* The U.S. Codex Office also maintains a Web site at *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/us-codex-alimentarius.*

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). United States membership in the WTO was approved and the Uruguay Round Agreements Act (Uruguay Round Agreements) was signed into law by the President on December 8, 1994, Public Law 103–465, 108 Stat. 4809. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. The Uruguay Round Agreements amended the Trade Agreements Act of 1979. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be ''responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization'' (19 U.S.C. 2578). The main international standard-setting organizations are Codex, the World Organisation for Animal Health, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995, (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of the SPS standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Office of Food Safety the responsibility to inform the public of the SPS standard-setting activities of Codex. The Office of Food Safety has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office (USCO).

Codex was created in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for establishing standards for food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers, ensure fair practices in the food trade, and promote coordination of food standards work undertaken by international governmental and nongovernmental organizations. In the United States, U.S. Codex activities are managed and carried out by the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS); the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC); and the Environmental Protection Agency (EPA).

As the agency responsible for informing the public of the SPS standard-setting activities of Codex, the Office of Food Safety publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The SPS standards under consideration or planned for consideration; and

2. For each SPS standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

TO OBTAIN COPIES OF THE STANDARDS LISTED IN ATTACHMENT 1, PLEASE CONTACT THE CODEX DELEGATE, U.S. CODEX OFFICE, OR VISIT THE CODEX ALIMENTARIUS WEBSITE: http://www.fao.org/fao-who-codexalimentarius/standards/en/.

This notice also solicits public comment on standards that are currently under consideration or planned for consideration and recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The U.S. delegate will facilitate public participation in the United States Government's activities relating to Codex. The U.S. delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex Committees and will disseminate information regarding U.S. delegation activities to interested parties. This information will include the status of each agenda item; the U.S. Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following the Codex committee sessions. In addition, the U.S. Codex Office makes much of the same information available through its Web page at *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/us-codex-alimentarius.* If you would like to access or receive information about specific committees, please visit the Web page or notify the appropriate U.S. delegate or the U.S. Codex Office, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–3700 (*uscodex@fsis.usda.gov*).

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex Committees for the time periods from June 1, 2016, to May 31, 2017, and June 1, 2017, to May 31, 2018. Attachment 2 provides a list of U.S. Codex Officials (including U.S. delegates and alternate delegates). A list of forthcoming Codex sessions may be found at: *http://www.codexalimentarius.org/meetings-reports/en/.*

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.*

Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on August 31, 2017.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

Attachment 1:

Sanitary and Phytosanitary Activities of Codex

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission convened for its 40th Session July 17–July 22, 2017, in Geneva, Switzerland. At that session, the Commission adopted standards recommended by Committees at Step 8 or Step 5/8, and it advanced the work of Committees by adopting draft standards at Step 5. The Commission also considered proposals for new work as well as proposed standards, codes of practice, amendments to the *Procedural Manual,* and related matters forwarded to the Commission by the general subject committees, commodity committees, and regional coordinating committees. In particular, the Commission considered proposals for new work by the Task Force on Antimicrobial Resistance; the Regular Review of Codex Work Management (electronic working groups); FAO/WHO Scientific Support for Codex; FAO/WHO Capacity Development and Trust Fund Activities; Relations between Codex and Other International Organizations; financial and budgetary issues; Election of the Chairperson, Vice-Chairpersons, and Members of the Executive Committee; and designation of Countries responsible for appointing the Chairpersons of Codex Subsidiary Bodies.

Before the Commission session, the Executive Committee met at its 73rd Session, July 10–13, 2017. It was composed of the chairperson; vice-chairpersons; seven members elected from the Commission from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific; and regional coordinators from the six regional committees. Canada was the elected representative from North America; the United States participated as an advisor. The Executive Committee conducted a critical review of the elaboration of Codex standards and considered Revitalization of the FAO/WHO Regional Coordinating Committees; Implementation Status of the 2014–2019 Strategic Plan and Preparation of the 2020–2025 Strategic Plan; Committees Working by Correspondence; Codex and Sustainable Development Goals; FAO/WHO Scientific Support for Codex work; Relations between FAO and WHO Policies, Strategies and Guidelines and Codex Work; and financial and budgetary issues.

U.S. Participation: Yes.

Responsible Agency: USDA/FSIS/USCO.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. The Committee also develops codes of practice, as may be required, and considers methods of sampling and analysis for the determination of veterinary drug residues in food. A veterinary drug is defined as any substance applied or administered to any food producing animal, such as meat or milk producing animals, poultry, fish, or bees, whether used for therapeutic, prophylactic or

diagnostic purposes, or for modification of physiological functions or behavior.

A Codex Maximum Residue Limit (MRL) for residues of veterinary drugs is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be permitted or recognized as acceptable in or on a food. Residues of a veterinary drug include the parent compounds or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned. An MRL is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI) or on the basis of a temporary ADI that utilizes an additional safety factor. When establishing an MRL, consideration is also given to residues that occur in food of plant origin or the environment. Furthermore, the MRL may be reduced to be consistent with official recommended or authorized usage, approved by national authorities, of the veterinary drugs under practical conditions.

An ADI is an estimate made by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, which can be ingested daily in food over a lifetime without appreciable health risk.

The Committee convened for its 23rd Session in Houston, Texas, October 17–21, 2016. The relevant document is REP17/RVDF. The following items were considered for adoption by the 40th Session of the Commission in July 2017:

Adopted at Step 5/8:

- Proposed draft MRLs for Lasalocid sodium (chicken, turkey, quail and pheasant kidney, liver, muscle, skin+fat); ivermectin (cattle fat, kidney, liver, muscle); and teflubenzuron (salmon filet, muscle).

Adopted at Step 5:

- Proposed draft Risk Management Recommendation for gentian violet.

The Committee will continue to work on the following items:

- Proposed draft MRLs for zilpaterol hydrochloride (cattle fat, kidney, liver, muscle);
- Draft Priority List of Veterinary drugs requiring evaluation or re-evaluation by JECFA;
- Discussion paper on MRLs for groups of fish species;
- Request for scientific advice to the FAO and WHO to address the issue of unavoidable and unintended residues of approved veterinary drugs in foods resulting from carry-over of veterinary drugs in feed;
- Database of countries' needs for MRLs;
- Analysis of the results of the global survey to provide information to the CCRVDF to move compounds from the database on countries' needs for MRLs to the JECFA priority list;
- Discussion paper on the evaluation of the rationale for the decline in new compounds to be included in the CCRVDF priority list for evaluation by JECFA;
- Discussion paper on edible offal tissues (possible definition and edible offal tissues of interest in international trade); and
- Discussion paper on the revision of the criteria for the use of multi-residue analytical methods for the determination and identification of veterinary drugs in foods.

Work on the following items has been discontinued:

- Proposed draft MRL for ivermectin (cattle muscle);
- Discussion paper on unintended presence of residues of veterinary drugs in food commodities resulting from the carry-over of drug residues; and
- Discussion paper on the establishment of a rating system to establish priority for CCRVDF work.

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA/Center for Veterinary Medicine; USDA/FSIS.

Codex Committee on Contaminants in Foods

The Codex Committee on Contaminants in Foods (CCCF) establishes or endorses permitted maximum levels (MLs) or guideline levels for contaminants and naturally occurring toxicants in food and feed; prepares priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives; considers and elaborates methods of analysis and sampling for the determination of contaminants and naturally occurring toxicants in food and feed; considers and elaborates on standards or codes of practice for related subjects; and considers other matters assigned to it by the Commission in relation to contaminants and naturally occurring toxicants in food and feed.

The Committee convened for its 11th Session in Rio de Janeiro, Brazil, April 3–7, 2017. The relevant document is REP17/CF. The following items were considered for adoption by the 40th Session of the Commission in July 2017:

Adopted:

- MLs for lead and arsenic in fish oils (amendment-inclusion of fish oils).

Adopted at Step 5, 5/8 & 8:

- Proposed draft and draft MLs for lead in selected processed fruits and vegetables (revision of MLs, accompanied by proposed revocations of corresponding existing MLs when the Commission adopts final new MLs).

Adopted at Step 5/8:

- Proposed draft code of practice (COP) for the prevention and reduction of arsenic contamination in rice;
- Annex on ergot and ergot alkaloids in cereal grains (annex to the COP for the prevention and reduction of mycotoxin contamination in cereals); and
- Proposed draft COP for the prevention and reduction of mycotoxin contamination in spices.

The Committee will continue working on:

- MLs for total aflatoxins in ready to eat peanuts (establishment of MLs);
- MLs for lead in selected commodities in the General Standard for Contaminants and Toxins in Food and Feed;
- MLs for cadmium in chocolate and cocoa-derived products (establishment of MLs);
- MLs for mycotoxins in spices;
- MLs for methylmercury in fish;
- Revision of the COP for the prevention and reduction of dioxins and dioxin-like polychlorinated biphenyls in food and feed;
- Code of Practice for the reduction of 3-MCPD and glycidyl esters in refined oils and products made with refined oils;
- Guidelines (best practice) for risk analysis of chemicals in advertently present in food at low levels;
- Establishment of ML for hydrocyanic acid in fermented cooked cassava-based products and occurrence of mycotoxins in these products;
- Structured approach to prioritize commodities not in the General Standard for Contaminants and Toxins in Food and Feed for which new MLs for lead could be established;
- Aflatoxins and sterigmatocystin in cereals;
- Development of a COP for the prevention and reduction of cadmium contamination in cocoa;
- Forward work plan for CCCF; and
- Priority list of contaminants and naturally occurring toxicants proposed for evaluation by JECFA.

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA; USDA/FSIS.

Codex Committee on Food Additives

The Codex Committee on Food Additives (CCFA) establishes or endorses acceptable MLs for individual

food additives; prepares a priority list of food additives for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); assigns functional classes to individual food additives; recommends specifications of identity and purity for food additives for adoption by the Codex Alimentarius Commission; considers methods of analysis for the determination of additives in food; and considers and elaborates standards or codes of practice for related subjects, such as the labeling of food additives when sold as such. The 49th Session of the Committee convened in Macao SAR, China, March 20–24, 2017. The relevant document is REP17/FA. Immediately before the Plenary Session there was a two-day physical Working Group on the *General Standard for Food Additives* (GSFA) chaired by the United States.

The following were considered by the 40th Session of the Commission in July 2017:

Adopted at Step 5/8:

• Proposed draft specifications for the identity and purity of food additives; and

• Proposed draft amendments to the *Class Names and International Numbering System (INS) for Food Additives* (CAC/GL 36–1989).

Adopted at Step 8 & 5/8:

• Draft and proposed draft food additive provisions of the GSFA.

Adopted:

• Amendment to the Introduction of the *List of Codex Specifications for Food Additives* (CAC/MISC 6);

• Revised food additive provisions of the GSFA related to the alignment of the standards for frozen fish products and of the *Standards for Certain Canned Citrus Fruits* (CODEX STAN 254–2007), *Preserved Tomatoes* (CODEX STAN 13–1981), *Processed Tomato Concentrates* (CODEX STAN 57–1981), and *Table Olives* (CODEX STAN 66–1981), and the EDTA provisions of the *Standard for Canned Shrimps or Prawns* (CODEX STAN 37–1981); and

• Revised food additive sections of the *Standards for Preserved Tomatoes* (CODEX STAN 13–1981), *Processed Tomato Concentrates* (CODEX STAN 57–1981), *Quick Frozen Fin-Fish, Uneviscerated and Eviscerated* (CODEX STAN 36–1981), *Quick Frozen Shrimps or Prawns* (CODEX STAN 92–1981), *Quick Frozen Lobsters* (CODEX STAN 95–1981), *Quick Frozen Blocks of Fish Filets* (CODEX STAN 190–1995), *Quick Frozen Fish Fillet, Quick Frozen Fish Sticks (Fish Fingers), Fish Portions and Fish Fillets—Breaded and in Batter* (CODEX STAN 166–1989), and *Fresh and Quick Frozen Raw Scallop Products* (CODEX STAN 315–2014).

The Committee will continue working on:

• Draft and proposed draft food additive provisions of the GSFA with an electronic working group (eWG) led by the United States);

• Proposals for additions and changes to the *Priority List of Substances Proposed for Evaluation by JECFA:*

○ The Committee noted that there are no specifications for sodium sorbate (INS 201). The Committee agreed that if a commitment is not made to provide sufficient data for the development of specifications at its next session (CCFA 50, 2018) sodium sorbate will be taken off of the priority list and existing adopted provisions for this additive in the GSFA and Codex Commodity Standards will be revoked.

• Alignment of the food additive provisions of commodity standards and relevant provisions of the GSFA; revised approach to listing commodity standards in Table 3 of the GSFA; and guidance for commodity committees in the alignment (eWG led by Australia and the United States);

• Revision of the Class Names and the *International Numbering System for Food Additives* (eWG led by Iran & Belgium);

• New or revised provisions of the GSFA with a physical working group (pWG) led by the United States;

• Discussion on the use of nitrates (INS 251, 252) and nitrites (INS 249, 250) (eWG led by the European Union and the Netherlands);

• Discussion paper on the use of the terms ''unprocessed'' and ''plain'' in the GSFA (Russian Federation); and

• Discussion paper on the ''Future Strategies for CCFA'' (Australia, Canada, China, Iran, and United States).

The Committee also agreed to hold a two-day physical Working Group on the GSFA immediately preceding the 50th Session of the CCFA in 2018, to be chaired by the United States. That group will discuss:

• The recommendations of the eWG on the GSFA on food additive provisions to be circulated for comment;

• New proposals and proposed revisions of food additive provisions in the GSFA; and

• Recommendations on the use of food additives in processed cheese.

U.S. Participation: Yes.

Responsible Agency: HHS/FDA.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues (CCPR) is responsible for establishing maximum residue limits (MRLs)for pesticide residues in specific food items or in groups of food; establishing MRLs for pesticide residues in certain animal feeding stuffs moving in international trade where this is justified for reasons of protection of human health; preparing priority lists of pesticides for evaluation by the Joint FAO/WHO Meeting on Pesticide Residues (JMPR); considering methods of sampling and analysis for the determination of pesticide residues in food and feed; considering other matters in relation to the safety of food and feed containing pesticide residues; and establishing maximum limits for environmental and industrial contaminants showing chemical or other similarity to pesticides in specific food items or groups of food.

The 49th Session of the Committee met in Beijing, China, April 24–29, 2017. The relevant document is REP17/PR. The following items were considered at the 40th Session of the Codex Alimentarius Commission in July 2017:

Adopted at Step 8 & 5/8:

• Draft and proposed draft Maximum Residue Limits (MRLs) for pesticides in food and feed;

• Draft and proposed draft Revision of the *Classification of Food and Feed* (Vegetable Commodity Groups);

• Proposed draft Table 2 with examples of representative commodities for vegetable commodity groups, for inclusion in the *Principles and Guidance for the Selection of Representative Commodities for the Extrapolation of MRLs for Pesticides to Commodity Groups*;

• Draft and proposed draft Revision of the *Classification of Food and Feed* (Grasses); and

• Proposed draft Table 3 with examples of representative commodities for grasses, for inclusion in the *Principles and Guidance for the Selection of Representative Commodities for the Extrapolation of MRLs for Pesticides to Commodity Groups.*

Adopted at Step 5:

• Proposed draft Revision of the *Classification of Food and Feed* (Seeds for Beverages and Sweets).

Adopted at Step 8:

• Draft *Guidelines on Performance Criteria for Methods of Analysis for the Determination of Pesticide Residues in Food and Feed.*

The Committee will continue working on:

• Draft MRLs for pesticides;

• Proposed draft MRLs for pesticides;

• Proposed draft and draft revisions of the Classification of Food and Feed for selected commodity groups, including seeds for beverages and sweets;

• Discussion paper on the possible review of the International Estimate of Short-Tern Intake (IESTI) Equations;
• Establishment Codex Schedules and Priority Lists of Pesticides;
• Information on National Registrations of Pesticides; and
• Discussion paper on the Establishment of a Codex Database of National Registrations of Pesticides.

U.S. Participation: Yes.

Responsible Agencies: EPA; USDA/FSIS.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling (CCMAS) defines the criteria appropriate to Codex Methods of Analysis and Sampling; serves as a coordinating body for Codex with other international groups working on methods of analysis and sampling and quality assurance systems for laboratories; specifies, on the basis of final recommendations submitted to it by the bodies referred to above, reference methods of analysis and sampling appropriate to Codex standards which are generally applicable to a number of foods; considers, amends if necessary, and endorses as appropriate, methods of analysis and sampling proposed by Codex commodity committees, except for methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives; elaborates sampling plans and procedures, as may be required; considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as, quality assurance systems for laboratories.

The 38th Session of the Committee met in Budapest, Hungary, May 8–12, 2017. The relevant document is REP17/MAS. The following items were considered by the Commission at its 40th Session in July 2017:

Adopted:

• Methods of Analysis and Sampling in Codex Standards; and
• Amendment to the *Procedural Manual* to refer to the sum of components.

The Committee will continue working on:

• Criteria for endorsement of biological methods to detect chemicals of concern;
• Follow-up work on the review and update of Codex Stan 234–1999;
• Future Work on database for Codex Methods of Analysis and Sampling Plans;
• Information document on Practical Examples on the Selection of Appropriate Sampling Plans;
• Proposals to amend the Guidelines on Measurement Uncertainty; and
• Proposal to amend the General Guidelines on Sampling.

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA; USDA/Grain Inspection, Packers and Stockyards Administration.

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) is responsible for developing principles and guidelines for food import and export inspection and certification systems, with a view to harmonizing methods and procedures that protect the health of consumers, ensure fair trading practices, and facilitate international trade in foodstuffs; developing principles and guidelines for the application of measures by the competent authorities of exporting and importing countries to provide assurance, where necessary, that foodstuffs comply with requirements, especially statutory health requirements; developing guidelines for the utilization, as and when appropriate, of quality assurance systems to ensure that foodstuffs conform with requirements and promote the recognition of these systems in facilitating trade in food products under bilateral/multilateral arrangements by countries; developing guidelines and criteria with respect to format, declarations, and language of such official certificates as countries may require with a view towards international harmonization; making recommendations for information exchange in relation to food import/export control; consulting as necessary with other international groups working on matters related to food inspection and certification systems; and considering other matters assigned to it by the Commission in relation to food inspection and certification systems.

The 23rd Session of the Committee convened in Mexico City, Mexico, May 1–5, 2017. The relevant document is REP17/FICS. There following items were considered by the Commission at its 40th Session in July 2017:

Adopted at Step 8:

• Draft *Principles and Guidelines for Monitoring the Performance of National Food Control Systems.*

The Committee will continue working on the following items:

• New work on guidance on the use of systems equivalence;
• New work on guidance on paperless use of electronic certificates (Revision of *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates*);
• New work on guidance on regulatory approaches to third party assurance schemes in food safety and fair practices in the food trade;
• Discussion paper on food integrity and food authenticity;
• Discussion paper on consideration of emerging issues and future directions for the work of the Codex Committee on Food Import and Export Inspection and Certification Systems;
• Framework for the preliminary assessment and identification of priority areas for CCFICs; and
• Inter-sessional physical working groups: trial broadcast via Webinar.

U.S. Participation: Yes.

Responsible Agencies: USDA/FSIS; HHS/FDA.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling (CCFL) drafts provisions on labeling applicable to all foods; considers, amends, and endorses draft specific provisions on labeling prepared by the Codex Committees drafting standards, codes of practice, guidelines; and studies specific labeling problems assigned by the Codex Alimentarius Commission. The Committee also studies problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The Committee will convene its 44th Session in Asuncion, Paraguay, October 16–20, 2017. The Committee will continue to discuss the following items:

• Revision of the *General Standard for the Labelling of Prepackaged Foods* (GSLPF): Date Marking (proposed draft);
• Guidance for the labelling of non-retail containers;
• Consumer preference claims (discussion paper);
• Front-of-pack labelling (discussion paper); and
• Future work (discussion paper).

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA; USDA/FSIS.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene (CCFH):

• Develops basic provisions on food hygiene, applicable to all food or to specific food types;

• Considers and amends or endorses provisions on food hygiene contained in Codex commodity standards and codes of practice developed by other Codex commodity committees;

• Considers specific food hygiene problems assigned to it by the Commission;

• Suggests and prioritizes areas where there is a need for microbiological risk assessment at the international level and develops questions to be addressed by the risk assessors; and

• Considers microbiological risk management matters in relation to food hygiene and in relation to the FAO/WHO risk assessments.

The Committee convened for its 48th Session in Los Angeles, CA, November 7–11, 2016. The relevant document is REP 17/FH. The following items were considered by the 40th Session of the Commission in July 2017:

Adopted at Step 5/8:

• Proposed draft Revision of the *Code of Hygienic Practice for Fresh Fruits and Vegetables.*

Endorsed with modifications:

• Proposed draft Regional *Code of Hygienic Practice for Street-Vended Foods in Asia.*

The Committee will continue working on:

• Proposed draft Revision of the *General Principles of Food Hygiene* and its HACCP Annex;

• Proposed draft *Guidance on Histamine Control;*

• New work proposals/forward work plan; and

• Discussion paper on future work on Shiga Toxin-Producing Escherichia coli (STEC).

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA; USDA/FSIS.

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables (CCFFV) is responsible for elaborating worldwide standards and codes of practice, as may be appropriate for fresh fruits and vegetables; for consulting as necessary, with other international organizations in the standards development process to avoid duplication.

The Committee will convene its 20th Session in Kampala, Uganda, October 2–6, 2017.

The committee will continue to discuss the following items:

• Matters arising from the Codex Alimentarius Commission and other Committees;

• Matters arising from other international organizations on the standardization of fresh fruits and vegetables;

• Draft *Standard for Aubergines;*

• Draft *Standard for Garlic;*

• Draft *Standard for Kiwifruit;*

• Draft *Standard for Ware Potatoes;*

• Draft *Standard for Fresh Dates;*

• Proposals for new work on Codex standards for fresh fruits and vegetables;

• Proposed layout for Codex standard for fresh fruits and vegetables (outstanding issues);

• Discussion paper on glossary of terms used in the layout for Codex standards for fresh fruits and vegetables; and

• Other Business.

U.S. Participation: Yes.

Responsible Agencies: USDA/Agricultural Marketing Service (AMS); HHS/FDA.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) is responsible for studying nutrition issues referred to it by the Codex Alimentarius Commission. The Committee also drafts general provisions, as appropriate, on nutritional aspects of all foods and develops standards, guidelines, or related texts for foods for special dietary uses in cooperation with other committees where necessary; considers, amends if necessary, and endorses provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines, and related texts.

The Committee convened for its 38th Session in Hamburg, Germany, December 5–9, 2016. The reference document is REP 17/NFSDU. The following items were considered by the Commission at its 40th Session in July 2017:

Adopted:

• Proposed amendments to section 6, paragraph 33 of the nutritional risk analysis principles in the Codex *Procedural Manual* to refer to the Joint Expert Meeting on Nutrition (JEMNU) as a primary source of scientific advice to the Committee;

• Editorial amendments to the *Guidelines on Nutrition Labelling;*

• Editorial amendments to various CCNFSDU standards with respect to flavoring; and

• Nutrient Reference Values-Requirements (NRV–R) for Vitamins D and E and the conversion factors for Vitamin E equivalents.

The Committee will continue working on:

• NRV–R's for older infants and young children;

• Revision of the Codex *Standard for Follow-Up Formula* (Section A: proposed draft essential composition and quality factors; Section B: certain essential composition and quality factors—young children);

• Review of other sections of the *Standard for Follow-up Formula;*

• Proposed draft Definition for Bio-fortification;

• Proposed draft Nutrient Reference Values-Non-Communicable Diseases (NRV–NCD) for EPA and DHA long chain omega-3 fatty acids;

• Proposed draft *Guidelines for Ready-to-Use Therapeutic Foods;*

• Claim for ''free'' of trans fatty acids;

• Mechanism/framework for considering technological justification/consider or confirm technological justification for certain food additives;

• Methods of analysis for provisions in the standard for infant formula and formulas for special medical purposes intended for infants; and

• Consideration of possible Guidance on Digestible Indispensable Amino Acid Score for protein quality assessment.

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA; USDA/Agricultural Research Service (ARS).

Ad hoc Codex Intergovernmental Task Force on Antimicrobial Resistance

The Ad hoc Codex Intergovernmental Task Force on Antimicrobial Resistance (TFAMR) is responsible for (1) reviewing and revising, as appropriate, the *Code of Practice to Minimize and Contain Antimicrobial Resistance* (CAC/RCP 61–2005) to address the entire food chain, in line with the mandate of Codex; and (2) considering the development of *Guidance on Integrated Surveillance of Antimicrobial Resistance,* taking into account the guidance developed by the WHO Advisory Group on Integrated Surveillance of Antimicrobial Resistance (AGISAR) and relevant World Organisation for Animal Health (OIE) documents. The objective of the Task Force is to develop science-based guidance on the management of foodborne antimicrobial resistance, taking full account of the WHO *Global Action Plan on Antimicrobial Resistance,* in particular objectives 3 and 4, the work and standards of relevant international organizations, such as FAO, WHO, and OIE, and the One-Health approach, to ensure members have the necessary guidance to enable coherent management of antimicrobial resistance along the food chain. The Task Force is expected to complete its work within three (or a maximum of four) sessions.

The Task force will convene for its 1st Session in the Republic of Korea, November 27—December 1, 2017.

U.S. Participation: Yes.

Responsible Agencies: FDA/USDA.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils (CCFO) is responsible for elaborating worldwide standards for fats and oils of animal, vegetable, and marine origin, including margarine and olive oil.

The Committee convened for its 25th Session in Kuala Lumpur, Malaysia, February 27–March 3, 2017. The relevant document is REP17/FO-Rev. The following items were considered by the Commission at its 40th Session in July 2017:

Adopted at Step 8:

• Draft *Standard for Fish Oils.*

Adopted at Step 5/8:

• Proposed draft Revision to the *Standard for Olive Oils and Olive Pomace Oils* (Codex Stan 210–1999): Revision of the Limits for Campesterol; and

• Proposed draft Revision to the *Standard for Named Vegetable Oils:* Revision of Quality Parameters for Peanut Oil.

Adopted at Step 5:

• Proposed draft Revision to the *Standard for Named Vegetable Oils:* Addition of Palm Oil with High Oleic Acid.

Adopted:

• Amendment to the Sections on Flavourings of Codex Standard 19–1981 (Section 3.3), Codex Stan 210–1999 (Section 4.1), and Codex Stan 256–2007; and

• Amendment to Section 2 in the Appendix of the *Standard for Named Vegetable Oils:* fatty acid range of crude rice bran oil.

Approved as new work:

• Revision of the *Standard for Named Vegetable Oils:* Essential composition of sunflower seed oils;

• Revision of the *Standard for Named Vegetable Oils:* Inclusion of walnut oil, almond oil, hazelnut oil, pistachio oil, flaxseed oil, and avocado oil;

• Revision of the *Standard for Named Vegetable Oils:* Replacement of acid value with free fatty acids for virgin palm oil and inclusion of free fatty acids for crude palm kernel oil; and

• Revision of the *Standard for Olive Oils and Pomace Olive Oils* (Codex Stan 33–1981).

The Committee will continue working on:

• Gathering information on technical difficulties in the implementation of the fish oil standard, specifically on monitoring its application with respect to the conformity of named fish oils with the requirements (especially the fatty acid profile) and its effect on trade;

• Alignment of food additives provisions in standards for fats and oils (except fish oils) and technological justification for use of emulsifiers;

• Considering proposals for new substances to be added to the list of acceptable previous cargoes;

• Providing relevant information (if available from Member countries) to JECFA on the 23 substances on the list of acceptable previous cargoes currently on the list; and

• Discussion paper on the applicability of the fatty acid composition of all oils listed in Table 1 in relation to the fatty acid composition of corresponding crude (unrefined) form in the *Standard for Named Vegetable Oils.*

U.S. Participation: Yes.

Responsible Agencies: HHS/FDA; USDA/Agricultural Research Service (ARS).

Codex Committee on Processed Fruits and Vegetables

The Codex Committee on Processed Fruits and Vegetables (CCPFV) is responsible for elaborating worldwide standards and related texts for all types of processed fruits and vegetables including, but not limited to canned, dried, and frozen products, as well as fruit and vegetable juices and nectars.

The Committee convened for its 28th Session in Washington, DC, September 12–16, 2016. The relevant document is REP17/PFV. The following items were considered for adoption by the 40th Session of the Commission in July 2017:

Adopted at Step 5/8:

• Annex on Canned Pineapples, for inclusion on the *Standard for Certain Canned Fruits;* and

• Annexes for Certain Quick Frozen Vegetables, for inclusion in the *Standard for Quick Frozen Vegetables.*

Adopted:

• Amendment to the Scope of the *Standard for Certain Canned Fruits;*

• Amendments to the food additive provisions in Codex standards for processed fruits and vegetables (subject to endorsement by CCFA);

• *Standard for Canned Chestnuts and Canned Chestnut Puree;*

• *Standard for Pickled Fruits and Vegetables;*

• *Standard for Jams, Jellies, and Marmalades;*

• *Standard for Canned Applesauce;*

• *Standard for Canned Fruit Cocktail;*

• *Standard for Canned Tropical Fruit Salad;*

• *Standard Pickled Cucumbers;*

• *Standard for Kimchi;* and

• *Standard for Canned Stone Fruits.*

Proposals for new work were received by CCEXEC and approved by CAC for cashew kernels, chili sauce, mango chutney, dried sweet potato, gochujang, dried fruits, and canned mixed fruits.

The Commission authorized CCPFV to work by correspondence until CAC 41 (2018) to prioritize the proposals for new work, prepare a work plan, and prepare recommendations on the establishment of electronic working groups.

U.S. Participation: Yes.

Responsible Agencies: USDA/Agricultural Marketing Service; HHS/FDA.

Codex Committee on Sugars

The Codex Committee on Sugars (CCS) elaborates worldwide standards for all types of sugars and sugar products.

The Committee has been re-activated electronically to work by correspondence on a draft *Standard for Non-Centrifuged Dehydrated Sugar Cane Juice.*

The following was considered by the Commission at its 40th Session in July 2017.

• Draft *Standard for Non-Centrifuged Dehydrated Sugar Cane Juice* (scope and definition of the product).

The Commission agreed to extend the work on development of this standard for one year.

Responsible Agencies: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Cereals Pulses & Legumes

The Codex Committee on Cereals, Pulses and Legumes (CCCPL) elaborates worldwide standards and/or codes of practice, as appropriate, for cereals pulses and legumes and their products.

The Committee has been reactivated to work by correspondence to draft an international Codex Standard for Quinoa. The following item was considered by the Commission at its 40th Session in July 2017:

Adopted at Step 5:

• Standard for Quinoa

The Commission agreed to establish an eWG chaired by the Plurinational State of Bolivia and co-chaired by the United States and to continue the work to address the outstanding issues.

The Commission also requested that the CCCF consider including quinoa in the MLs for lead and cadmium in cereals in the GSCTFF, in accordance with the recommendations of the 73rd session of CCEXEC.

No additional work is ongoing in this Committee. It will again be adjourned *sine die* once the work on the

international Codex Standard for Quinoa is completed.

Responsible Agencies: HHS/FDA.

U.S. Participation: Yes.

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products (CCMMP) elaborates worldwide standards, codes and related texts for milk and milk products. The Committee was reactivated to work by correspondence on a general standard for processed cheese and a Draft Standard for Dairy Permeate Powders. Consensus has not been reached on the general standard for processed cheese. In 2016, the Commission agreed to discuss this item at the Commission session in 2017, noting the offer of New Zealand as host country of CCMMP to collate any substantial new ideas provided by members in the interim. No new proposals were received, and the Commission discontinues work on this standard at its 2017 session. The draft *Standard for Dairy Permeate Powders* was adopted by the Commission at Step 8 at its 2017 session.

U.S. Participation: Yes.

Responsible Agencies: USDA/AMS.

Certain Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned *sine die.* The following Committees fall into this category:

• Cocoa Products and Chocolate—adjourned 2001

U.S. Participation: Yes.

Responsible Agency: HHS/FDA.

• Fish and Fishery Products—adjourned 2016

U.S. Participation: Yes.

Responsible Agency: HHS/FDA/NOAA.

• Meat Hygiene—adjourned 2003

U.S. Participation: Yes.

Responsible Agency: USDA/FSIS.

• Natural Mineral Waters—adjourned 2008

U.S. Participation: Yes.

Responsible Agency: HHS/FDA.

• Vegetable Proteins—adjourned 1989

U.S. Participation: Yes.

Responsible Agency: USDA/ARS.

FAO/WHO Regional Coordinating Committees

The FAO/WHO Regional Coordinating Committees define the problems and needs of the regions concerning food standards and food control; promote within the Committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulate the strengthening of food control infrastructures; recommend to the Commission the development of worldwide standards for products of interest to the region, including products considered by the Committees to have an international market potential in the future; develop regional standards for food products moving exclusively or almost exclusively in intra-regional trade; draw the attention of the Commission to any aspects of the Commission's work of particular significance to the region; promote coordination of all regional food standards work undertaken by international governmental and non-governmental organizations within each region; exercise a general coordinating role for the region and such other functions as may be entrusted to them by the Commission; and promote the use of Codex standards and related texts by members.

There are six regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean
Coordinating Committee for the Near East
Coordinating Committee for North America and the South West Pacific

Coordinating Committee for Africa

The Committee (CCAFRICA) convened its 22nd Session January 16–20, 2017, in Nairobi, Kenya. The relevant document is REP 17/Africa. The following items were considered by the 40th Session of the Commission in July 2017.

Adopted at Step 5/8:

• Proposed draft Regional Standard for Unrefined Shea Butter.

Adopted at Step 5:

• Proposed draft Regional Standard for Fermented Cooked Cassava Based Products; and

• Proposed draft Regional Standard for Gnetum Spp leaves.

The Committee will continue to work on the following items:

• Proposed draft Regional Standard for Unrefined Shea Butter;

• Proposed draft Regional Standard for Fermented Cooked Cassava Based Products;

• Proposed draft Regional Standard for Gnetum Spp leaves;

• Priority Setting criteria for the establishment of work priorities as laid down in the Codex *Procedural Manual;*

• Comments on the preparation of the new global Codex Strategic Plan;

• Food quality and safety situation in countries of the Region (on-line platform, prioritization of needs in the region and comments for future consideration);

• Use of Codex Standards in the Region;

• Proposed draft Standard on Dried Meat;

• Discussion paper and project document on a Harmonized Food Law; and

• Discussion paper/project on a Regional Standard for a Fermented Non-Alcoholic Cereal Based Drink (Mahewu).

U.S. Participation: Yes (as observer).

Responsible Agency: USDA/FSIS/USCO.

Coordinating Committee for Asia

The Committee (CCASIA) convened its 20th Session in New Delhi, India, September 26–30, 2016. The relevant document is REP 17/Asia. The following items were considered by the 40th Session of the Commission in July 2017.

Adopted at Step 5/8:

• Proposed draft Regional Standard for Laver Products; and

• Proposed draft Regional Code of Hygienic Practice for Street-Vended Foods in Asia.

Adopted:

• Amendments to the CCASIA Regional Standards.

The committee will continue to work on the following items:

• Report on the status of the Implementation of the Activities of the Strategic Plan Relevant to CCASIA;

• Discussion paper and project document on the Development of a Regional Standard for Rice Based Low Alcohol Beverages (cloudy types);

• Discussion paper and project document on the Development of a Regional Standard for Soybean Products Fermented with the Bacterium Bacillus Subtilis;

• Discussion paper and project document on the Development of a Regional Standard for Quick Frozen Dumpling (Jiaozi);

• Discussion paper and the project document on the Development of a Regional Standard/Code of Practice for Zongzi;

• Emerging Issues as priorities for the CCASIA region; and

• Information sharing on the Food Safety Control Systems.

U.S. Participation: Yes (as observer).

Responsible Agency: USDA/FSIS/USCO.

Coordinating Committee for Europe

The Committee (CCEUROPE) convened its 30th Session in Astana, Kazakhstan, October 3–7, 2016. The relevant document is REP 17/EURO.

The Committee will continue to work on the following items:

• Survey on critical and emerging issues;

• On-line Platform and information sharing on the Food Safety Control Systems;

• Survey on the use of Codex Standards;

• Relevant languages of the Codex Alimentarius Commission in the work of CCEUROPE; and

• Consider funding translation and interpretation services into Russian for the effective operation of CCEUROPE.

U.S. Participation: Yes (as observer).

Responsible Agency: USDA/FSIS/USCO.

Coordinating Committee for Latin America and the Caribbean

The Coordinating Committee for Latin America and the Caribbean (CCLAC) convened its 20th Session in Vina del Mar, Chile, November 21–25, 2016. The relevant document is REP 17/LAC. The following item was considered by the 40th Session of the Commission in July 2017.

Adopted:

• Proposed draft Regional Standard for Yacon.

The Committee will continue to work on the following items:

• Monitoring of the Strategic Plan for the CCLA;

• Critical and Emerging Issues and prioritization of CCLAC issues within the framework of Codex Mandate;

• Comments on the Food Safety Control Systems Platform;

• Cross-cutting topics for the region and proposed draft standards and discussions seeking regional support; and

• Proposal for the Development of a Standard for Yams.

U.S. Participation: Yes (as observer).

Responsible Agency: USDA/FSIS/USCO.

Coordinating Committee for the Near East

The Coordinating Committee for the Near East (CCNEA) held its 9th Session at FAO Headquarters in Rome, Italy, May 15–19, 2017. The relevant document is REP 17/NE.

The Committee forwarded the following items to the 40th Session of the Codex Alimentarius Commission for consideration:

• Proposed draft Regional Standard for Doogh for adoption at step 5/8 and endorsement by the Codex Committee on Food Additives (CCFA) and the Codex Committee on Food Labeling (CCFL) of the relevant provisions within the draft standard;

• Proposed draft Regional Standard for Zaatar for adoption at step 5.

U.S. Participation: No.

Responsible Agency: USDA/FSIS/USCO.

Coordinating Committee for North America and the South West Pacific (CCNASWP)

The Committee (CCNASWP) convened its 14th Session in Port Vila, Vanuatu, September 19–22, 2016. The relevant document is REP 17/NASWP. The following items were considered by the 40th Session of the Commission in July 2017.

The Committee will continue to work on the following items:

• New work on the development of a Regional Standard for Kava as a beverage when mixed with cold water;

• Recommendation that Vanuatu be re-appointed as Coordinator for North America and the South West Pacific;

• Proposed draft Regional Standard for Fermented Noni-Juice;

• Development of on-line platform for information on sharing food quality and safety systems.

U.S. Participation: Yes.

Responsible Agency: USDA/FSIS/USCO.

Contact:

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ATTACHMENT 2

U.S. CODEX ALIMENTARIUS OFFICIALS

CODEX CHAIRPERSONS FROM THE UNITED STATES

Codex Committee on Food Hygiene

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Codex Committee on Processed Fruits and Vegetables

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Codex Committee on Residues of Veterinary Drugs in Foods

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U.S. Delegates and Alternate Delegates

WORLDWIDE GENERAL CODEX SUBJECT COMMITTEES

Contaminants in Foods

(Host Government—The Netherlands)

U.S. Delegate

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Alternate Delegate

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Food Additives

(Host Government—China)

U.S. Delegate

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Alternate Delegate

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Food Hygiene

(Host Government—United States)

U.S. Delegate

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Alternate Delegates

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Food Import and Export Certification and Inspection Systems

(Host Government—Australia)

U.S. Delegate

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Alternate Delegate

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Food Labelling

(Host Government—Canada)

U.S. Delegate

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Alternate Delegate

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General Principles

(Host Government—France)

Delegate Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Methods of Analysis and Sampling

(Host Government—Hungary)

U.S. Delegate

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Alternate Delegate

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Nutrition and Foods for Special Dietary Uses

(Host Government—Germany)

U.S. Delegate

Douglas Balentine, Director, Office of Nutrition, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, Room 4C096, College Park, MD, USA 20740–3835, Phone: +1 (240) 402–2373, *Douglas.Balentine@fda.hhs.gov.*

Alternate Delegate

Pamela R. Pehrsson, Ph.D., Research Leader, USDA, Agricultural Research Service, Nutrient Data Laboratory, Room 105, Building 005, BARC-West, 10300 Baltimore Avenue, Beltsville, MD 20705, 301–504–0630 (voice), 301–504–0632 (fax), *Pamela.Pehrsson@ars.usda.gov.*

Pesticide Residues

(Host Government—China)

U.S. Delegate

Captain David Miller, Chief, Chemistry & Exposure Branch, and Acting Chief, Toxicology & Epidemiology Branch, Health Effects Division, William Jefferson Clinton Building, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Phone: +1 (703) 305–5352, Fax: +1 (703) 305–5147, *Miller.Davidj@epa.gov.*

Alternate Delegate

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Residues of Veterinary Drugs in Foods

(Host Government—United States)

U.S. Delegate

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Alternate Delegate

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WORLDWIDE COMMODITY CODEX COMMITTEES (ACTIVE)

Cereals, Pulses and Legumes

(Host Government—United States)

U.S. Delegate

Dr. Henry Kim, Office of Food Safety, Senior Policy Analyst, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD, USA 20740–3835, Phone: +1 (240) 402–2023, *henry.kim@fda.hhs.gov.*

Alternate Delegate

Patrick McCluskey, Supervisory Agricultural Marketing Specialist,

United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, 10383 N. Ambassador Drive, Kansas City, MO 64153, Phone: +1 (816) 659–8403, *Patrick.J.Mccluskey@usda.gov.*

Fats and Oils

(Host Government—Malaysia)

U.S. Delegate

Dr. Paul South, Director, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD, USA 20740–3835, Phone: +1 (240) 402–1640, Fax: +1 (301) 436–2632, *Paul.South@fda.hhs.gov.*

Alternate Delegate

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Fresh Fruits and Vegetables

(Host Government—Mexico)

U.S. Delegate

Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, Mail Stop 0247, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *Dorian.Lafond@usda.gov*.

Alternate Delegate

David T. Ingram, Ph.D., Consumer Safety Officer, Office of Food Safety, Fresh Produce Branch, Division of Produce Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, Room 3E027, College Park, MD, USA 20740–3835, Phone: +1 (240) 402–0335, *David.Ingram@fda.hhs.gov*.

Milk and Milk Products

(Host Government—New Zealand)

U.S. Delegate

Christopher Thompson, Dairy Standardization Branch, Mail Stop 0230, Room 2742, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250, Phone: +1 (202) 720–9382, Fax: +1 (844) 804–4701, *Christopher.D.Thompson@ams.usda.gov*.

Alternate Delegate

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Processed Fruits and Vegetables

(Host Government—United States)

U.S. Delegate

Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0247, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *Dorian.Lafond@usda.gov*.

Alternate Delegate

Dr. Yinqing Ma, Branch Chief, Beverages Branch, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2479, Fax: +1 (301) 436–2632, *Yinqing.Ma@fda.hhs.gov*.

Spices and Culinary Herbs

(Host Government—India)

U.S. Delegate

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Alternate Delegate

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Sugars

(Host Government—Colombia)

U.S. Delegate

Dr. Chia-Pei Charlotte Liang, Chemist, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2785, *Charlotte.Liang@fda.hhs.gov*.

WORLDWIDE COMMODITY CODEX COMMITTEES (ADJOURNED)

Cocoa Products and Chocolate (adjourned *sine die* 2001)

(Host Government—Switzerland)

U.S. Delegate

Michelle Smith, Ph.D., Senior Policy Analyst, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration (HFS–317), Harvey W. Wiley Federal Building, 5001 Campus Drive, College Park, MD 20740–3835, Phone: +1 (240) 402–2024, Fax: +1 (301) 436–2632, *Michelle.Smith@fda.hhs.gov*.

Fish and Fishery Products (adjourned *sine die* 2016)

(Host Government—Norway)

U.S. Delegate

Dr. William R. Jones, Deputy Director, Office of Food Safety (HFS–300), U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2300, Fax: +1 (301) 436–2601, *William.Jones@fda.hhs.gov*.

Alternate Delegate

Steven Wilson, Deputy Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Silver Spring, Maryland 20910, Phone: +1 (301) 427–8312, *Steven.Wilson@noaa.gov*.

Meat Hygiene (adjourned *sine die* 2003)

(Host Government—New Zealand)

U.S. Delegate

Vacant

Natural Mineral Waters (adjourned *sine die* 2008)

(Host Government—Switzerland)

U.S. Delegate

Dr. Yinqing Ma, Branch Chief, Beverages Branch, Division of Plant Products and Beverages, Office of Food Safety (HFS–317), Center for Food Safety and Applied Nutrition,

U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2479, Fax: +1 (301) 436–2632, *Yinqing.Ma@fda.hhs.gov*.

Vegetable Proteins (adjourned *sine die* 1989)

(Host Government—Canada)

U.S. Delegate

Vacant

AD HOC INTERGOVERNMENTAL TASK FORCES (DISSOLVED)

Animal Feeding (Dissolved 2013)

(Host Government—Switzerland)

U.S. Delegate

Daniel G. McChesney, Ph.D., Director, Office of Surveillance & Compliance, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7529 Standish Place, Rockville, MD 20855, Phone: +1 (240) 402–7140, Fax: +1 (240) 453–6880, *Daniel.McChesney@fda.hhs.gov*.

Alternate Delegate

Dr. Patty Bennett, Humane Handling Enforcement Coordinator, Office of Field Operations Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, Room 3155–S, Washington, DC 20250, Phone: +1 (202) 720–5397, *Patty.Bennett@fsis.usda.gov.*

Antimicrobial Resistance (Re-established 2016)

(Host Government—Republic of Korea)

U.S. Delegate

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Alternate Delegate

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[FR Doc. 2017–18832 Filed 9–5–17; 8:45 am]

BILLING CODE 3410–DM–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Minnesota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Minnesota Advisory Committee (Committee) to the Commission will be held at 11:00 a.m. (Central Time) September 11, 2017. The purpose of the meeting is for the Committee to discuss and likely vote on project topic of study.

DATES: The meeting will be held on Wednesday, September 6, 2017, at 11:00 p.m. CDT.

PUBLIC CALL INFORMATION:
Dial: 877–718–5106
Conference ID: 4885819

FOR FURTHER INFORMATION CONTACT: Carolyn Allen at *callen@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 877–718–5106, conference ID number: 4885819. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the U.S. Commission on Civil Rights, Regional Programs Unit, 55 West Monroe Street, Suite 410, Chicago, IL 60603. They may be faxed to the Commission at (312) 353–8324, or emailed Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://facadatabase.gov/committee/meetings.aspx?cid=256.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome
II. Approval of Minutes
III. Discussion on Draft Report on ''Responses to 21st Century Policing in Minnesota''
IV. Public Comment
V. Next Steps
VI. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of DFO capacity that required rescheduling meeting to this date.

Dated: August 30, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–18757 Filed 9–5–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board Charter Renewal

AGENCY: United States Travel and Tourism Advisory Board, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Chief Financial Officer and Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the Charter for the United States Travel and Tourism Advisory Board on August 17, 2017.

DATES: The Charter for the United States Travel and Tourism Advisory Board was renewed on August 17, 2017.

FOR FURTHER INFORMATION CONTACT: Brian Beall, the United States Travel and Tourism Advisory Board, Room 10003, 1401 Constitution Avenue NW., Washington, DC, 20230, telephone: 202–482–5634, email: *Brian.Beall@trade.gov.*

SUPPLEMENTARY INFORMATION: The Chief Financial Officer and Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the United States Travel and Tourism Advisory Board on August 17, 2017. This Notice is published in accordance with the Federal Advisory Committee Act (FACA) (Title 5, United States Code, Appendix 2, section 9). It has been determined that the Committee is necessary and in the public interest. The Committee was established pursuant to Commerce's authority under 15 U.S.C. 1512, established under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. and with the concurrence of the General Services Administration. The Committee provides advice to the Secretary on government policies and programs that affect the U.S. travel and tourism industry.

Dated: August 28, 2017.

Brian Beall,

Designated Federal Officer, United States Travel and Tourism Advisory Board.

[FR Doc. 2017–18820 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) listed below. The International Trade Commission (the Commission) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s).

DATES: Applicable (September 1, 2017).

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating Sunset Reviews of the following AD and CVD order(s):

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–905	731–TA–1104	PRC	Polyester Staple Fiber (2nd Review)	Matthew Renkey (202) 482–2312.
A–570–864	731–TA–895	PRC	Pure Magnesium In Granular Form (3rd Review)	Robert James (202) 482–0649.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: *http://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in these segments.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department modified two regulations related to AD/CVD proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).[4] Parties are advised to review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt,* prior to submitting factual information in these segments.[5]

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*) (amending 19 CFR 351.303(g)).

[4] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013).

[5] *See Extension of Time Limits,* 78 FR 57790 (September 20, 2013).

of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[6]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

[6] *See* 19 CFR 351.218(d)(1)(iii).

Dated: August 30, 2017.

James Maeder,

Senior Director perfoming the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–18763 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Steel Import License

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 6, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Julie Al-Saadawi, Office of Policy, Enforcement and Compliance, 1401 Constitution Ave. NW., Washington, DC 20230 (202) 482–2105, Fax: (202) 501–7952 or via email *julie.al-saadawi@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The President's Proclamation on Steel Safeguards mandated that the Departments of Commerce and Treasury institute an import licensing system to facilitate the monitoring of certain steel imports in 2002.

Regulations were established that implemented the Steel Import Monitoring and Analysis (SIMA) System and expanded on the licensing system in 2006 for steel that was part of those safeguards. The import license information is necessary to assess import trends of steel products.

In order to effectively monitor steel imports, Commerce must collect and provide timely aggregated summaries about the imports. The Steel Import License is the tool used to collect the necessary information. The Census Bureau currently collects import data and disseminates aggregate information about steel imports. However, the time required to collect, process, and disseminate this information through Census can take up to 90 days after importation of the product, giving interested parties and the public far less time to respond to injurious sales.

II. Method of Collection

The license application can be submitted electronically via the Commerce Web site (*http://enforcement.trade.gov/steel/license/*) or completed electronically and emailed or faxed to the Department.

III. Data

OMB Control Number: 0625–0245.

Form Number(s): ITA–4141P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,500.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 92,878.

Estimated Total Annual Cost to Public: 0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–18819 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On March 3, 2017, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products (CTL plate) from the Republic of Korea (Korea). Based on our analysis of the comments received, we continue to find that subject merchandise has been sold at less than normal value.

DATES: Applicable September 6, 2017.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5760 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2017, the Department published the *Preliminary Results* of the administrative review.[1] The period of review is February 1, 2015, through January 31, 2016. We invited interested parties to comment on the *Preliminary Results* and received case and rebuttal briefs from interested parties.[2]

The Department conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the antidumping duty order are certain CTL plate. Imports of CTL plate are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Issues and Decision Memorandum.[3]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached in the Appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Final Determination of No Shipments

We preliminarily found that Daewoo International Corp., GS Global Corp., Hyosung Corporation, Hyundai Glovis Co., Ltd., Hyundai Mipo Dockyard Co., Ltd., Samsung C&T Corporation, Samsung Heavy Industries, and SK Networks Co., Ltd. did not have any reviewable entries of subject merchandise during the POR.[4] After the *Preliminary Results,* we received no comments or additional information with respect to these eight companies.[5] Therefore, for the final results, we continue to find that these eight companies did not have any reviewable entries of subject merchandise during the POR. Consistent with our practice, we will issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on our final results.

Changes Since the Preliminary Results

Based on our analysis of comments received, we revised the preliminary margin calculations for Dongkuk Steel Mill Co., Ltd. (DSM) and Hyundai Steel Company (Hyundai Steel). These revisions resulted in changes to the margins for DSM and the respondents not selected for individual examination, but no changes to the margin for Hyundai Steel, for the final results of this review.[6]

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the respondents for the period February 1, 2015, through January 31, 2016.

Producer/exporter	Weighted-average dumping margin (percent)
BDP International	2.03
Bookuk Steel Co., Ltd	2.03
Dongkuk Steel Mill Co., Ltd	1.84
Hyundai Steel Company	2.05
Samsung C&T Engineering & Construction Group	2.03
Samsung C&T Trading and Investment Group	2.03
Sung Jin Steel Co., Ltd	2.03

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the final results in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject

[1] *See Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 12431 (March 3, 2017) (*Preliminary Results*).

[2] *See* the case briefs from Nucor Corporation and Hyundai Steel Company dated April 3, 2017, the redacted case brief from Samsung C&T Corporation dated April 7, 2017, and the rebuttal briefs from Nucor Corporation, Hyundai Steel Company, and Dongkuk Steel Mill Co., Ltd. dated April 10, 2017.

[3] *See* the Memorandum, ''Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review of Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea; 2015–2016,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum).

[4] *See Preliminary Results,* 82 FR at 12432 and accompanying Preliminary Decision Memorandum at 3.

[5] In its case brief, Samsung C&T Corporation requested that the Department issue a final determination of no shipments for Samsung C&T Engineering & Construction Group and Samsung C&T Trading and Investment Group. *See* Samsung C&T Corporation's redacted case brief dated April 7, 2017. We denied this request. *See* Issues and Decision Memorandum at Comment 8.

[6] *See* Issues and Decision Memorandum for further details on the changes we made for these final results. *See also* the Memoranda, ''Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Analysis Memorandum for Dongkuk Steel Mill Co., Ltd.,'' and ''Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results Analysis Memorandum for Hyundai Steel Company,'' dated concurrently with this notice.

merchandise in accordance with the final results of this review.

For DSM and Hyundai Steel, we calculated importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[7] For entries of subject merchandise during the period of review produced by DSM or Hyundai Steel for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For the companies which were not selected for individual examination, BDP International, Bookuk Steel Co., Ltd., Samsung C&T Engineering & Construction Group, Samsung C&T Trading and Investment Group, and Sung Jin Steel Co., Ltd., we will instruct CBP to apply the rates listed above to all entries of subject merchandise produced and/or exported by these firms. For the eight companies that we determined had no reviewable entries of the subject merchandise in this review period, we will instruct CBP to liquidate any applicable entries of subject merchandise at the all-others rate. We intend to issue liquidation instructions to CBP 15 days after publication of the final results of these reviews.

Cash Deposit Requirements

The following deposit requirements will be applicable upon publication of this notice for all shipments of CTL plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior complete segment of this proceeding, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 0.98 percent,[8] the all-others rate determined in the less-than-fair-value (LTFV) investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: August 30, 2017.

Gary Taverman.

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

Summary
Background
Scope of the Order
Rates for Respondents Not Selected for Individual Examination
Discussion of the Issues
Comment 1: Differential Pricing
Comment 2: Major-Input Rule
Comment 3: Cost Differences Not Associated With Physical Characteristics
Comment 4: Cost of Prime Products
Comment 5: Affiliated-Party Inputs
Comment 6: Overrun Sales
Comment 7: Marine Insurance
Comment 8: Reviewable Entries

[FR Doc. 2017–18824 Filed 9–5–17; 8:45 am]

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[7] In these final results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

[8] *See, e.g., Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2014–2015,* 81 FR 62712, 62714 (September 12, 2016).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836]

Light-Walled Rectangular Pipe and Tube From Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on light-walled rectangular pipe and tube (LWRPT) from Mexico. The period of review is August 1, 2015, through July 31, 2016. The review covers one producer/exporter of the subject merchandise, Productos Laminados de Monterrey S.A. de C.V (Productos Laminados). We preliminarily determine that sales of subject merchandise by Productos Laminados and affiliated reseller, Aceros Cuatros Caminos S.A. de C.V. (A4C) (collectively, Prolamsa), were not made at less than normal value during the period of review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 6, 2017.

FOR FURTHER INFORMATION CONTACT: Madeline Heeren, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–9179.

SUPPLEMENTARY INFORMATION:

Background

These preliminary results of review are made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). On October 14, 2016, the Department published the notice of initiation for the administrative review.[1] For a complete

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR

description of the events that followed the initiation of the review, *see* the Preliminary Decision Memorandum.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and to all parties in the Central Records Unit, located in room B8094 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The products covered by the scope of the order are LWRPT from Mexico. For a complete description of the scope, *see* Appendix I of this notice.

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Act. For a full description of the methodology underlying the preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine that, for the period August 1, 2015, through July 31, 2016, the following weighted-average dumping margin exists: [3]

Producer/exporter	Weighted-average margin (percent)
Productos Laminados de Monterrey S.A. de C.V./ Aceros Cuatros Caminos S.A. de C.V	0.00

Disclosure and Public Comment

The Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results of review within five days after the date of publication of this notice.[4] Interested parties may submit case briefs not later than 30 days after the date of publication of this notice in the **Federal Register**.[5] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[6] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[7] Case and rebuttal briefs should be filed using ACCESS.[8]

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice.[9] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[10] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless extended, the Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[11] If a respondent's weighted-average dumping margin is not zero or *de minimis* in the final results of this review and the respondent reported reliable entered values, we will calculate importer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of dumping calculated for the examined sales made during the period of review to each importer to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). If the respondent has not reported reliable entered values, we will calculate a per-unit assessment rate for each importer by dividing the total amount of dumping for the examined sales made during the period of review to that importer by the total sales quantity associated with those transactions. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). If the respondent's weighted-average dumping margin is zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [12]

Regarding entries of subject merchandise during the period of review that were produced by Prolamsa and for which they did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate of 3.76 percent, as established in the less-than-fair-value investigation of the order, if there is no rate for the intermediate company(ies) involved in the transaction.[13] For a full

71061 (October 14, 2016) (*Initiation Notice*) as corrected in *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 78778 (November 9, 2016) (*Correction Notice*).

[2] *See* Memorandum, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Light-Walled Rectangular Pipe and Tube from Mexico; 2015–2016,'' dated concurrently with this notice.

[3] The Department has preliminarily determined to collapse, and treat as a single entity, affiliates Productos Laminados de Monterrey S.A. de C.V. and Aceros Cuatro Caminos S.A. de C.V. For our analysis of the collapsing criteria, *see* Memorandum, ''Analysis Memorandum for Productos Laminados de Monterrey S.A. de C.V. and Aceros Cuatro Caminos S.A. de C.V. in the Preliminary Results of the 2015/2016 Administrative Review of the Antidumping Duty order on Light-Walled Rectangular Pipe and Tube from Mexico,'' dated concurrently with this notice.

[4] *See* 19 CFR 351.224(b).

[5] *See* 19 CFR 351.309(c)(1)(ii).

[6] *See* 19 CFR 351.309(d)(1).

[7] *See* 19 CFR 351.309(c)(2) and (d)(2).

[8] *See* 19 CFR 351.303.

[9] *See* 19 CFR 351.310(c).

[10] *See* 19 CFR 351.310(d).

[11] *See* 19 CFR 351.212(b)(1).

[12] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[13] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403, (August 5, 2008) (*Order*).

discussion of this matter, *see Assessment Policy Notice.*[14]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Prolamsa will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or in the investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be the all-others rate of 3.76 percent. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 30, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The scope of this order covers certain welded carbon-quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The term carbon-quality steel includes both carbon steel and alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated; 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded-carbon quality rectangular pipe and tube subject to the order is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. This tariff classification is provided for convenience and Customs purposes; however, the written description of the scope of the order is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Affiliation and Collapsing of Affiliates
4. Comparisons to Normal Value
   A. Determination of Comparison Method
   B. Results of the Differential Pricing Analysis
5. Product Comparisons
6. Date of Sale
7. Export Price/Constructed Export Price
8. Normal Value
   A. Home Market Viability as Comparison Market
   B. Level of Trade
   C. Sales to Affiliates
   D. Cost of Production
   1. Calculation of Cost of Production
   2. Test of Comparison Market Sales Prices
   3. Results of the Cost of Production Test
   E. Calculation of Normal Value Based on Comparison Market Prices
   F. Price-to-Constructed Value Comparison
9. Currency Conversion
10. Recommendation

[FR Doc. 2017–18825 Filed 9–5–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to Tariff Act of 1930, as amended (the Act), the Department of Commerce (the Department) and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for October 2017

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in October 2017 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Reviews).

	Department contact
Antidumping Duty Proceedings	
Silicomanganese from China (A–570–828) (4th Review)	Robert James (202) 482–0649.
Silicomanganese from Ukraine (A–823–805) (4th Review)	Robert James (202) 482–0649.

[14] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*).

Countervailing Duty Proceedings

No Sunset Review of countervailing duty orders is scheduled for initiation in October 2017.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in October 2017.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year* (Sunset) *Reviews* provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: August 30, 2017.

James Maeder,

Senior Director perfoming the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–18762 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF670

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Spiny Dogfish Monitoring Committee will hold a public meeting to review 2018 specifications and management measures and make any appropriate recommendations.

DATES: The meeting will be held Wednesday, September 20, 2017, from 9 a.m. to 11 a.m.

ADDRESSES: The meeting will be held via webinar: *http://mafmc.adobeconnect.com/spinydogmc-2017/*. Call-in information is provided upon logging onto the webinar.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's Web site, *www.mafmc.org* will also have details on the proposed agenda and briefing materials.

SUPPLEMENTARY INFORMATION: The Mid-Atlantic Fishery Management Council's Spiny Dogfish Monitoring Committee will hold a public meeting to review 2018 specifications and management measures and make any appropriate recommendations. Spiny dogfish is in multi-year specifications for 2016–18 but the specifications are reviewed annually. Public comment will be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: August 31, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18871 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF676

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Mariana Archipelago, American Samoa Archipelago, and Hawaii Archipelago Fishery Ecosystem Plan (FEP) Advisory Panels (AP) to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The CNMI Mariana Archipelago FEP AP will meet on Wednesday, September 20, 2017, between 5 p.m. and 8 p.m. The American Samoa Archipelago FEP AP will meet on Thursday, September 21, 2017, between 4:30 p.m. and 6:30 p.m. The Guam Mariana Archipelago FEP AP will meet on Friday, September 22, 2017, between 5 p.m. and 8 p.m. The Hawaii Archipelago FEP AP will meet on Friday, September 29, 2017, between 1 p.m. and 4 p.m. All times listed are local island times. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting addresses:

The CNMI Archipelago FEP AP will meet at the Hyatt Regency Saipan, Royal Palm Avenue, Micro Beach Road, Garapan, Saipan, CNMI 96950;

The American Samoa Archipelago FEP AP will meet at the Pacific Petroleum Conference Room, Utulei Village, American Samoa 96799;

The Guam Mariana Archipelago FEP AP will meet at the Hilton Guam Resort & Spa, 202 Hilton Road, Tumon Bay, Tamuning, Guam 96913; and

The Hawaii Archipelago FEP AP will meet at the Council Office, 1164 Bishop St. Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided in the agenda. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the CNMI Mariana Archipelago FEP AP Meeting

Wednesday, September 20, 2017, 5 p.m.–8 p.m.

1. Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
   - A. Ecosystem Component Species Designation
   - B. Aquaculture Management in the Western Pacific Region
4. Mariana FEP Community Activities
5. Marianas FEP AP–CNMI Issues
   - A. Report of the Subpanels
     - i. Island Fisheries Subpanel

ii. Pelagic Fisheries Subpanel
iii. Ecosystems and Habitat Subpanel
iv. Indigenous Fishing Rights Subpanel
B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Schedule and Agenda for the American Samoa Archipelago FEP AP Meeting

Thursday, September 21, 2017, 4:30 p.m.–6:30 p.m.

1. Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
A. Ecosystem Component Species Designation
B. Aquaculture Management in the Western Pacific Region
C. Options for the American Samoa Large Vessel Prohibited Area
D. Modifications to the American Samoa Longline Fishery Permitting System
4. American Samoa FEP Community Activities
5. American Samoa FEP AP Issues
A. Report of the Subpanels
i. Island Fisheries Subpanel
ii. Pelagic Fisheries Subpanel
iii. Ecosystems and Habitat Subpanel
iv. Indigenous Fishing Rights Subpanel
B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Schedule and Agenda for the Guam Mariana Archipelago FEP AP Meeting

Friday, September 22, 2017, 5 p.m.–8 p.m.

1. Hafa Adai-Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
A. Ecosystem Component Species Designation
B. Aquaculture Management in the Western Pacific Region
4. Mariana FEP Community Activities
5. Marianas FEP AP-Guam Issues
A. Report of the Subpanels
i. Island Fisheries Subpanel
ii. Pelagic Fisheries Subpanel
iii. Ecosystems and Habitat Subpanel
iv. Indigenous Fishing Rights Subpanel
B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. ''At the End of the Day''—Other Business

Schedule and Agenda for the Hawaii Archipelago FEP AP Meeting

Friday, September 29, 2017, 1 p.m.–4 p.m.

1. Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
A. Ecosystem Component Species Designation
B. Aquaculture Management in the Western Pacific Region
4. Hawaii FEP Community Activities
5. Hawaii FEP AP Issues
A. Report of the Subpanels
i. Island Fisheries Subpanel
ii. Pelagic Fisheries Subpanel
iii. Ecosystems and Habitat Subpanel
iv. Indigenous Fishing Rights Subpanel
B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 31, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18870 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF668

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a one-day meeting of its Ad Hoc Reef Fish Headboat Advisory Panel.

DATES: The meeting will convene on Wednesday, September 20, 2017, from 8:30 a.m. to 5 p.m. EDT.

ADDRESSES: The meeting will take place at the Gulf Council Office.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Assane Diagne, Economist, Gulf of Mexico Fishery Management Council; *assane.diagne@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Wednesday, September 20, 2017; 8:30 a.m.–5 p.m., EDT

1. Adoption of Agenda
2. Overview and Discussion of Reef Fish Amendment 42
3. Referendum Eligibility Requirements
4. Other Business
—Meeting Adjourns—

You may register for Ad Hoc Reef Fish Headboat Advisory Panel meeting on September 20, 2017 at: *https://register.gotowebinar.com/register/3170928147750540802* The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. Click on the ''Library Folder'', then scroll down to ''AP Meeting_Ad Hoc Reef Fish Headboat-2017–09''.

The meeting will be webcast over the internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: August 31, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18868 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF667

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a one-day meeting of its Ad Hoc Red Snapper Charter For-Hire Advisory Panel.

DATES: The meeting will convene on Tuesday, September 19, 2017, from 8:30 a.m. to 5 p.m. EDT.

ADDRESSES: The meeting will take place at the Gulf Council office.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Matt Freeman, Economist, Gulf of Mexico Fishery Management Council; *matt.freeman@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, September 19, 2017; 8:30 a.m.–5 p.m., EDT:

1. Adoption of Agenda
2. Summary and Discussion of Actions within Reef Fish Amendment 41
3. Referendum Eligibility Requirements Process
4. Other Business

—Meeting Adjourns—

You may register for Ad Hoc Red Snapper Charter For-Hire Advisory Panel meeting on September 19, 2017 at: *https://attendee.gotowebinar.com/register/6575211860414571778.*

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's Web site and click on the FTP link in the lower left of the Council Web site (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. Click on the ''Library Folder'', then scroll down to ''AP Meeting_Ad Hoc Red Snapper CFH–2017–09''.

The meeting will be webcast over the Internet. A link to the webcast will be available on the Council's Web site, *http://www.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: August 31, 2017.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–18869 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF618

Meeting of the Columbia Basin Partnership Task Force of the Marine Fisheries Advisory Committee

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the proposed schedule and agenda of a forthcoming meeting of the Marine Fisheries Advisory Committee's (MAFAC's) Columbia Basin Partnership Task Force (CBP Task Force). The CBP Task Force will discuss the issues outlined in the **SUPPLEMENTARY INFORMATION** below.

DATES: The meeting will be held September 26, 2017, from 8 a.m. to 5 p.m. and on September 27, 2017, from 8 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Best Western Plus Hood River Inn, 1108 E Marina Drive, Hood River, OR 97031.

FOR FURTHER INFORMATION CONTACT: Katherine Cheney; NFMS West Coast Region (503) 231–6730; email: *Katherine.Cheney@noaa.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given of a meeting of MAFAC's CBP Task Force. The MAFAC was established by the Secretary of Commerce (Secretary) and, since 1971, advises the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. The complete MAFAC charter and summaries of prior MAFAC meetings are located online at *http://www.nmfs.noaa.gov/ocs/mafac/.* The CBP Task Force reports to MAFAC and is being convened to discuss and develop recommendations for long-term goals to meet Columbia Basin salmon recovery, conservation needs, and harvest opportunities. These goals will be developed in the context of habitat capacity and other factors that affect salmon mortality. More information is available at the CBP Task Force Web page: *http://www.westcoast.fisheries.noaa.gov/columbia_river/index.html.*

Matters To Be Considered

The meeting time and agenda are subject to change. Updated information will be available on the CBP Task Force Web page above. Meeting topics include progress reports on applying the analytical framework to example species as prototypes and updates on quantitative goal setting, guiding principles, and vision. The meeting is open to the public as observers, and public input will be accepted on September 27, 2017, from 1:00–1:30 p.m., limited to the time available.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Katherine Cheney; 503–231–6730, by Sept. 15, 2017.

Dated: August 23, 2017.

Jennifer Lukens,

Director for the Office of Policy, National Marine Fisheries Service.

[FR Doc. 2017–18144 Filed 9–5–17; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2017–0023]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is proposing a new information collection titled, ''Student Loan Servicing Market Monitoring.''

DATES: Written comments are encouraged and must be received on or before October 6, 2017 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link becomes active on the day following publication of this notice). Select ''Information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *CFPB_PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Student Loan Servicing Market Monitoring.

OMB Control Number: 3170–XXXX.

Type of Review: New Collection (Request for a New OMB Control Number).

Affected Public: Businesses and other for-profit institutions.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 8,200.

Abstract: The Bureau will require quarterly data collection on aggregated student loan servicing metrics and borrower outcomes from student loan servicers. The order is intended to help the Bureau carry out its market monitoring goals and is pursuant to the Bureau's market monitoring authority under Section 1022(c)(4) of the Dodd-Frank Wall Street and Consumer Protection Act.

Request for comments: The Bureau issued a 60-day **Federal Register** notice on February 23, 2017, 82 FR 11440, Docket Number: CFPB–2017–0002. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Dated: August 30, 2017.

Darrin A. King,

Paperwork Reduction Act Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2017–18776 Filed 9–5–17; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) announces the availability of the inventions listed below, assigned to the United States Government, as represented by the Secretary of the Navy, for domestic and foreign licensing by the Department of the Navy.

ADDRESSES: Requests for copies of the patents cited should be directed to Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001, Email *Christopher.Monsey@navy.mil.*

SUPPLEMENTARY INFORMATION: The following patents are available for licensing: Patent No. 9,685,231 (Navy Case No. 103033): IRREPRODUCIBLE AND RE-EMERGENT UNIQUE STRUCTURE OR PATTERN IDENTIFIER MANUFACTURING AND DETECTION METHOD, SYSTEM, AND APPARATUS//Patent No. 9,684,025 (Navy Case No. 103032): DUT CONTINUITY TEST WITH ONLY DIGITAL IO STRUCTURES APPARATUS AND METHODS ASSOCIATED THEREOF//Patent No. 9,683,514 (Navy Case No. 102781): HIGH EFFICIENCY COMBUSTOR AND CLOSED-CYCLE HEAT ENGINE INTERFACE//Patent No. 9,669,539 (Navy Case No. 103113): MAGNETIC DRILL SYSTEM//and Patent No. 9,680,561 (Navy Case No. 200235): SITUATIONAL AWARENESS AND POSITION INFORMATION FOR SATELLITE COMMUNICATION TERMINALS.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: August 30, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–18915 Filed 9–5–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice Inviting Publishers To Submit Tests for a Determination of Suitability for Use in the National Reporting System for Adult Education

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Notice.

SUMMARY: The Secretary of Education (1) invites publishers to submit tests for review and approval for use in the National Reporting System for Adult Education (NRS); and (2) announces the date by which publishers must submit these tests.

DATES: *Deadlines for transmittal of applications:* October 1, 2017, and April 1, 2018.

ADDRESSES: Submit your application by mail (through the U.S. Postal Service or a commercial carrier) or deliver your application by hand or by courier service to: NRS Assessment Review, c/o American Institutes for Research, 1000 Thomas Jefferson Street NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: John LeMaster, U.S. Department of Education, 400 Maryland Avenue SW., Room 11152, Potomac Center Plaza, Washington, DC 20202–7240. Telephone: (202) 245–6218 or by email: *John.LeMaster@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department's regulations for Measuring Educational Gain in the National Reporting System for Adult Education, 34 CFR part 462 (NRS regulations), include the procedures for determining the suitability of tests for use in the NRS.

There is a review process that will begin on October 1, 2017, and a separate review process that will begin on April 1, 2018. Only tests submitted by the due date will be reviewed in that review cycle. If a publisher submits a test after October 1, 2017, the test will not be reviewed until the review cycle that begins on April 1, 2018.

Criteria the Secretary Uses: In order for the Secretary to consider a test suitable for use in the NRS, the test must meet the criteria and requirements established in 34 CFR 462.13.

Submission Requirements:

(a) In preparing your application, you must comply with the requirements in 34 CFR 462.11.

(b) In accordance with 34 CFR 462.10, the deadlines for transmittal of applications in this fiscal year are October 1, 2017, and April 1, 2018.

(c) Whether you submit your application by mail (through the U.S. Postal Service or a commercial carrier) or deliver your application by hand or by courier service, you must mail or deliver four copies of your application, on or before the deadline date, to the following address: NRS Assessment Review, c/o American Institutes for Research, 1000 Thomas Jefferson Street NW., Washington, DC 20007.

(d) If you submit your application by mail or commercial carrier, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

(e) If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(f) We do not consider applications postmarked after the application deadline date. If an application is postmarked after the October 1, 2017, deadline date but before April 1, 2018, the application will be considered timely for the April 1 deadline date.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

(g) If you submit your application by hand delivery, you (or a courier service) must deliver four copies of the application by hand, on or before 4:30:00 p.m., Washington, DC time, on the application deadline date.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 29 U.S.C. 3292.

Dated: August 31, 2017.

Kim R. Ford,

Deputy Assistant Secretary Delegated the Duties of the Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2017–18867 Filed 9–5–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0063]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Study of Weighted Student Funding and School-Based Systems (Study Instruments)

AGENCY: Office of Planning, Evaluation and Policy Development (OPEPD), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 6, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0063. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Oliver Schak, 202–453–5643.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an

opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Study of Weighted Student Funding and School-Based Systems (Study Instruments).

OMB Control Number: 1875–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 1,902.

Total Estimated Number of Annual Burden Hours: 568.

Abstract: The purpose of this study is to investigate how districts vary in their implementation of weighted student funding (WSF) and school-based budgeting (SBB); outcomes in terms of levels of principal autonomy, transparency of resource allocation, and extent to which resources are distributed based on student needs; interactions of WSF and SBB systems with school choice policies; and challenges that districts may have faced in transitioning to and implementing these systems. Data collection will include: (a) Nationally representative surveys of districts andprincipals, and (b) case studies of nine districts that are implementing WSF systems, including site visits, in-person interviews with district officials and school staff, and analysis of relevant extant data such as descriptive documents, budgets, and audited expenditure files.

Dated: August 30, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–18754 Filed 9–5–17; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Information Collection—2018 Election Administration and Voting Survey; Comment Request

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act* of 1995, the EAC announces an information collection and seeks public comment on the provisions thereof. The EAC intends to submit this proposed information collection (2018 Election Administration and Voting Survey) to the Director of the Office of Management and Budget for approval. The 2018 Election Administration and Voting Survey (Survey) asks election officials questions concerning voting and election administration. These questions request information concerning ballots cast; voter registration; overseas and military voting; Election Day activities; voting technology; and other important issues. The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC's and the Department of Defense Federal Voting Assistance Programs' (FVAP) quantitative State data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections.

DATES: Written comments must be submitted on or before 5:00 p.m. EST on November 6, 2017.

ADDRESSES: Comments on the proposed information collection should be submitted electronically to *electiondaysurvey@eac.gov.* Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* Election Administration and Voting Survey.

Obtaining a Copy of the Survey: To obtain a free copy of the survey: (1) Email Sean Greene at the U.S. Election Assistance Commission at *sgreene@eac.gov;* or (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* Election Administration and Voting Survey.

FOR FURTHER INFORMATION CONTACT: Mr. Sean Greene at 301–563–3919, or email *sgreene@eac.gov,* U.S. Election Assistance Commission 1335 East West Highway, Suite 4300, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION:

Comments: Public comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Needs and Uses

The EAC issues the survey to meet its obligations under the Help America Vote Act (HAVA) to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC and FVAP's data collection requirements under the UOCAVA; and meet its NVRA mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections. HAVA requires the EAC to serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal Elections. This includes the obligation to study and report on election activities, practices, policies, and procedures, such as methods of voter registration, methods of conducting provisional voting, poll worker recruitment and training, and such other matters as the Commission determines are appropriate. In addition, under the NVRA, the EAC is responsible for collecting information and reporting, biennially, to the United States Congress on the impact of that statute. The information the States are required to submit to the EAC for purposes of the

NVRA report are found under Title 11 of the Code of Federal Regulations. States that respond to questions in this survey concerning voter registration related matters will meet their NVRA reporting requirements under 52 U.S.C. 20508 and EAC regulations. Finally, the UOCAVA mandates that the FVAP work with the EAC and State Chief Election officials to develop standards for reporting UOCAVA voting information (52 U.S.C. 20302) and that the FVAP will store the reported data and present the findings within the congressionally-mandated report to the President and Congress. Additionally, UOCAVA requires that ''not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the EAC on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public.'' States that complete and timely submit the UOCAVA section of the survey to the EAC will fulfill their UOCAVA reporting requirement under 52 U.S.C. 20302. In order to fulfill the above requirements, the EAC is seeking information relating to the period from the Federal general election day 2016 +1 through the November 2018 Federal general election. The EAC will provide the data regarding UOCAVA voting to FVAP after data collection is completed. This data sharing reduces burden on local election offices because FVAP does not have to conduct its own data collection to meet its reporting requirements.

Title and OMB Number: 2018 Election Administration and Voting Survey; OMB Number Pending.

Summary of the Collection of Information: The survey requests information on a state- and county-level (or township-, independent city-, borough-level, where applicable) concerning the following categories:

Voter Registration Applications (From the Period of Federal General Election Day +1, 2016 Through Federal General Election Day, 2018)

(a) Total number of registered voters;

(b) Number of active and inactive registered voters;

(c) Number of persons who registered to vote on Election Day—only applicable to States with Election Day registration;

(d) Number of voter registration applications received from all sources;

(e) Number of voter registration applications that were duplicates, invalid or rejected, new, changes of name, address, party, and not categorized;

(f) Total number of removal/confirmation notices mailed to voters and the reason for removal;

(g) total number of voters removed from the registration list or moved to the inactive registration list.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

(a) Total number and type of registered and eligible UOCAVA voters;

(b) Total number of Federal Post Card Applications (FPCAs) received by type of voter;

(c) Total number of FPCAs rejected by type of voter;

(d) Total number of FPCAs rejected after the absentee ballot request deadline;

(e) Total number of UOCAVA absentee ballots transmitted by type of UOCAVA voter and mode of transmission;

(f) Total number of transmitted UOCAVA ballots returned by type of UOCAVA voter and mode of transmission;

(g) Total number of transmitted UOCAVA ballots counted by type of UOCAVA voter and mode of return;

(h) Total number of transmitted UOCAVA ballots rejected by type of UOCAVA voter and reason for rejection;

(i) Total number of FWABs received by type of voter;

(j) Total number of FWABs rejected by type of voter; and

(k) Total number of FWABs rejected by reason for rejection.

Domestic Civilian By-Mail Voting

(a) Total number of by-mail ballots transmitted to voters;

(b) Total number of ballots returned by voters;

(c) Total number of ballots counted; and

(d) Total number of ballots rejected, by reason for rejection.

Total Votes Cast and In-Person Voting

(a) Total number of votes cast in the election, as well as in-person on Election Day and during in-person early voting;

(b) Total number of precincts in the state/jurisdiction;

(c) Number of polling places available for early and Election Day voting in the November 2018 Federal general election;

(d) Number of poll workers used during early voting and during Election Day voting;

(e) The age of poll workers who worked in the election; and

(f) Extent to which jurisdictions had enough poll workers available for the general election.

Provisional Voting

(a) Number of provisional ballots cast, counted, and rejected; and

(b) Reasons for provisional ballot rejection.

Election Technologies

(a) Use of electronic and printed poll books during the 2018 Federal general election; and

(b) Type and number of voting equipment used for the 2018 Federal general election for precinct, absentee, early vote site, accessible to disabled voters, provisional voting.

Statutory Overview (2018 Federal General Election)

(a) Who answers the questions in each section of the EAVS;

(b) Description of the state's voter registration database system;

(c) Description of the types of electronic data connections the state has with various other government entities;

(d) Information on whether the state has online voter registration, automatic voter registration, and same day voter registration;

(e) Type of absentee voting and early voting regime the state has;

(f) Information on whether the state has vote centers;

(g) If the state accepts provisional ballots from voters registered in a different precinct;

(h) The type of election audit regime the state has;

(i) The type of voter identification regime the state has; and

(j) The voting eligibility requirements for individuals who have been convicted of a felony.

Affected Public (Respondents): State or local governments, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

Affected Public: State or local government.

Number of Respondents: 55.

Responses per Respondent: 1.

Estimated Burden per Response: 150 hours per collection, 75 hours annualized.

Estimated Total Annual Burden Hours: 8,250 hours per collection, 4,125 hours annualized.

Frequency: Biennially.

Bryan Whitener,

Director of National Clearinghouse on Elections, U.S. Election Assistance Commission.

[FR Doc. 2017–18876 Filed 9–5–17; 8:45 am]

BILLING CODE 4810–71–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–977–000.
Applicants: Kinetica Energy Express, LLC.
Description: § 4(d) Rate Filing: Tariff Revision Filing to be effective 10/1/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5081.
Comments Due: 5 p.m. ET 9/6/17.

Docket Numbers: RP17–978–000.
Applicants: Sabal Trail Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate—Duke Energy Florida—contract 850002 to be effective 10/1/2017.
Filed Date: 8/25/17.
Accession Number: 20170825–5121.
Comments Due: 5 p.m. ET 9/6/17.

Docket Numbers: RP17–979–000.
Applicants: Millennium Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Service Agmt—City of Norwich to be effective 11/1/2016.
Filed Date: 8/25/17.
Accession Number: 20170825–5233.
Comments Due: 5 p.m. ET 9/6/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 28, 2017.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2017–18843 Filed 9–5–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–980–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20170828 Interim UAF to be effective 10/1/2017.
Filed Date: 8/28/17.
Accession Number: 20170828–5158.
Comments Due: 5 p.m. ET 9/11/17.

Docket Numbers: RP17–981–000.
Applicants: Northwest Pipeline LLC.
Description: § 4(d) Rate Filing: NWP 2017 Winter Fuel Filing to be effective 10/1/2017.
Filed Date: 8/29/17.
Accession Number: 20170829–5037.
Comments Due: 5 p.m. ET 9/11/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2017.

Nathaniel J. Davis, Sr.

Deputy Secretary

[FR Doc. 2017–18844 Filed 9–5–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17–146–000.
Applicants: Thunder Ranch Wind Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Thunder Ranch Wind Project, LLC.
Filed Date: 8/30/17.
Accession Number: 20170830–5064.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: EG17–147–000.
Applicants: Scott-II Solar LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Scott-II Solar LLC.
Filed Date: 8/30/17.
Accession Number: 20170830–5108.
Comments Due: 5 p.m. ET 9/20/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–2375–000.
Applicants: GenOn Holdco 8, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 10/1/2017.
Filed Date: 8/30/17.
Accession Number: 20170830–5001.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2376–000.
Applicants: GenOn Holdco 9, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 10/1/2017.
Filed Date: 8/30/17.
Accession Number: 20170830–5002.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2377–000.
Applicants: GenOn Holdco 10, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 10/1/2017.
Filed Date: 8/30/17.
Accession Number: 20170830–5003.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2378–000.
Applicants: Michigan Electric Transmission Company, LLC.
Description: § 205(d) Rate Filing: Filing of a Letter Agreement to be effective 8/31/2017.
Filed Date: 8/30/17.
Accession Number: 20170830–5061.
Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2379–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: OATT Administrative Filing to be effective 1/1/2015.

Filed Date: 8/30/17.

Accession Number: 20170830–5096.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2380–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B.GLA to be effective 10/30/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5100.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2381–000.

Applicants: Scott-II Solar LLC.

Description: Baseline eTariff Filing: Baseline—Market-Based Rate Tariff to be effective 10/23/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5101.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2382–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4765, Queue No. AB1–123 to be effective 8/7/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5122.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2383–000.

Applicants: Great Bay Solar I, LLC.

Description: § 205(d) Rate Filing: Name Change to be effective 8/30/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5134.

Comments Due: 5 p.m. ET 9/20/17.

Docket Numbers: ER17–2384–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4766, Queue Position No. AB1–124 to be effective 8/7/2017.

Filed Date: 8/30/17.

Accession Number: 20170830–5137.

Comments Due: 5 p.m. ET 9/20/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 30, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–18842 Filed 9–5–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9965–21]

Receipt of Information Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of information submitted pursuant to a rule, order, or consent agreement issued under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which information has been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the information received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: John Schaeffer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8173; email address: *schaeffer.john@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information received about the following chemical substance and/or mixture is provided in Unit IV.: *Ethanedioic acid (CASRN 144–62–7).*

II. Authority

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of information submitted pursuant to a rule, order, or consent agreement promulgated under TSCA section 4 (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document, which announces the receipt of the information. Upon EPA's completion of its quality assurance review, the information received will be added to the docket identified in Unit IV., which represents the docket used for the TSCA section 4 rule, order, and/or consent agreement. In addition, once completed, EPA reviews of the information received will be added to the same docket. Use the docket ID number provided in Unit IV. to access the information received and any available EPA review.

EPA's dockets are available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

IV. Information Received

As specified by TSCA section 4(d), this unit identifies the information received by EPA.

Ethanedioic Acid (CASRN 144–62–7)

1. *Chemical Uses:* Ethanedioic acid is used as a rust remover; in antirust metal cleaners and coatings; as a flame-proofing and cross-linking agent in cellulose fabrics; as a reducing agent in mordent wool dying; as an acid dye stabilizing agent in nylon; as a scouring agent for cotton printing; and as a dye stripper for wool. Ethanedioic acid is also used for degumming silk; for the separation and recovery of rare earth elements from ore; for bleaching leather and masonry; for cleaning aluminum and wood decks; and as a synthetic intermediate for pharmaceuticals.

2. *Applicable Rule, Order, or Consent Agreement:* Testing of Certain High Production Volume Chemicals; Second Group of Chemicals (HPV2), 40 CFR 799.5087.

3. *Information Received:* The following listing describes the nature of the information received. The information will be added to the docket for the applicable TSCA section 4 rule, order, or consent agreement and can be found by referencing the docket ID number provided. EPA reviews of information will be added to the same docket upon completion.

Application for Exemption from Testing. The docket ID number assigned to this information is EPA–HQ–OPPT–2007–0531.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: July 27, 2017.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–18759 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9967–10–Region 1]

Proposed CERCLA Administrative Settlement Agreement; RBF Frozen Desserts Superfund Site, West Hartford, Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement; request for public comments.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), notice is hereby given of a proposed administrative settlement for recovery of response costs under CERCLA Section 122(h)(1), concerning the RBF Frozen Desserts Superfund Site in West Hartford, Connecticut with the following settling party: H.P.D.I., LLC. The settlement requires H.P.D.I., LLC to pay $40,000.00 to the Hazardous Substance Superfund, in two installments.

For 30 days following the date of publication of this notice, the Environmental Protection Agency (EPA) will receive written comments relating to the settlement. The United States will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at 5 Post Office Square, Boston, MA 02109–3912.

DATES: Comments must be submitted by October 6, 2017.

ADDRESSES: Comments should be addressed to Cynthia Lewis, Senior Enforcement Counsel, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100 (OES04–3), Boston, MA 02109–3912; (617) 918–1889, and should refer to: In re: RBF Frozen Desserts Superfund Site, EPA Region 1 CERCLA Docket No. 01–2017–0064.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed settlement may be obtained from Cynthia Lewis, Senior Enforcement Counsel, U.S. Environmental Protection Agency, 5 Post Office Square, Suite 100 (OES04–3), Boston, MA 02109–3912; (617) 918–1889; *lewis.cindy@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposed administrative settlement for recovery of response costs under CERCLA Sections 122(h)(1), concerning the RBF Frozen Desserts Superfund Site in West Hartford, Connecticut, requires the settling party, H.P.D.I., LLC to pay $40,000.00, in two installments, to the Hazardous Substance Superfund.

The settlement includes a covenant not to sue pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607, relating to the Site, and protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. 9613(f)(2) and 9622(h)(4).

Dated: August 9, 2017.

Bryan Olson,

Director, Office of Site Remediation and Restoration.

[FR Doc. 2017–18872 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0405; FRL–9965–05]

Certain New Chemicals; Receipt and Status Information for May 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from May 1, 2017 to May 31, 2017.

DATES: Comments identified by the specific case number provided in this document, must be received on or before October 6, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0702, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Rahai, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the actions addressed in this document.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through

regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from May 1, 2017 to May 31, 2017, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Under TSCA, 15 U.S.C. 2601 *et seq.,* EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory, please go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.*

Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic reports on the status of new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

For the 22 PMNs received by EPA during this period, Table 1 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the PMN; The date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer/importer; the potential uses identified by the manufacturer/importer in the PMN; and the chemical identity.

TABLE 1—PMNS RECEIVED FROM MAY 1, 2017 TO MAY 31, 2017

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0297	5/4/2017	8/2/2017	Gelest	(S) Carrier for printing inks (S) Personal care (S) Research	(S) Trisiloxane, 1,1,1,3,5,5,5-heptamethyl-3-propyl-.
P–17–0298	5/2/2017	7/31/2017	GE Water & Process Technologies.	(S) The notified substance is described as a hydrogen sulfide scavenger used in controlling hydrogen sulfide in the vapor space of fuel storage, shipping vessels and pipelines. It is designed to reduce the health, safety and environmental hazards of handling fuels containing h2s. The substance reacts selectively with (neutralizes) and removes h2s to help meet product and process specifications.	(S) Formaldehyde, homopolymer, reaction products with n-propyl-1-propanamine.
P–17–0299	5/2/2017	7/31/2017	CBI	(G) Paint additive	(G) 2-propenoic acid, alkyl-, polymers with alkyl acrylate and polyethylene glycol methacrylate alkyl ether.
P–17–0300	5/4/2017	8/2/2017	CBI	(S) Surface treatment material for use on textiles.	(G) Isocyanate, polymer, pyrazole, polyethylene glycol derivative and fluoro alcohol.
P–17–0301	5/15/2017	8/13/2017	CBI	(G) Used as a surface drier in clear and pigmented coatings systems to replace other primary driers, particularly cobalt.	(G) Manganese heterocyclic-amine carboxylate complexes.
P–17–0303	5/12/2017	8/10/2017	CBI	(G) Component for tire	(G) Modified copolymer of buta-1,3-diene and styrene.
P–17–0304	5/11/2017	8/9/2017	Hmt, LLC	(S) The substance is a part of a thermoset plastic material. The thermoset plastic in combination with glass fibers will produce a composite material for construction of internal & external floating roofs in atmospheric storage tanks used in petrochemical plants.	(S) See letter of support.
P–17–0305	5/15/2017	8/13/2017	Allnex USA Inc	(S) UV curable coating resin	(G) Waste plastics, poly(ethylene terephthalate), depolymd. with polypropylene glycol ether with glycerol (3:1), polymers with alkenoic acid, alkanoic acid and alkanol substituted alkane.

TABLE 1—PMNS RECEIVED FROM MAY 1, 2017 TO MAY 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
P–17–0306	5/19/2017	8/17/2017	CBI	(G) Component in foam insulation	(G) Fatty acid modified aromatic polyester polyol
P–17–0307	5/19/2017	8/17/2017	CBI	(G) Component in foam insulation	(G) Fatty acid modified aromatic polyester polyol.
P–17–0308	5/19/2017	8/17/2017	CBI	(S) As crosslinker in silicone sealants used in automotive repair shops to seal various metal parts in vehicles to metal andgGlass. (S) As crosslinker for silicone sealants used to create metal-to-metal, metal-to-glass, or metal-to-ceramic bonds in automotive and white goods production.	(S) 2-pentanone, 2,2′,2″-[o,o′,o″-(ethenylsilylidyne)trioxime].
P–17–0309	5/19/2017	8/17/2017	CBI	(S) Crosslinker for silicone sealants used to create metal-to-metal, metal-to-glass, or metal-to-ceramic bonds in automotive and white goods production. (S) As crosslinker in silicone sealants used in automotive repair shops to seal various metal parts in vehicles to metal and glass.	(S) 2-pentanone, 2,2′,2″-[o,o′,o″-(methylsilylidyne)trioxime].
P–17–0311	5/23/2017	8/21/2017	CBI	(S) Raw materials constituting the ultraviolet curable ink. (S) Material monomer for synthesizing polymer.	(G) Aromatic acrylate.
P–17–0312	5/24/2017	8/22/2017	CBI	(G) Additive for electrocoat formulas	(G) Organic acid, compounds with bisphenol a-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted amine-disubstituted polypropylene glycol reaction products.
P–17–0313	5/24/2017	8/22/2017	CBI	(G) Additive for electrocoat formulas	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with 2-(chloromethyl)oxirane and alpha-(2-oxiranylmethyl)-omega-(2-oxiranylmethoxy)poly[oxy (methyl-1,2-ethanediyl)], reaction products with disubstituted amine and disubstituted polypropylene glycol, organic acid salts.
P–17–0314	5/24/2017	8/22/2017	CBI	(G) Additive for electrocoat formulas	(G) Organic acid, 2-substituted-, compounds with bisphenol a-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted amine-disubstituted polypropylene glycol reaction products.
P–17–0315	5/24/2017	8/22/2017	CBI	(G) Additive for electrocoat formulas	(G) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with alpha-(2-substituted-methylethyl)-omega-(2-substituted-methylethoxy)poly[oxy (methyl-1,2-ethanediyl)], 2-(chloromethyl)oxirane and alpha-(2-oxiranylmethyl)-omega-(2-oxiranylmethoxy)poly [oxy (methyl-1,2-ethanediyl)], alkylphenyl ethers, reaction products with disubstituted amine, organic acid salts.
P–17–0316	5/24/2017	8/22/2017	CBI	(G) Additive for electrocoat Formulas	(G) Organic acid, compounds with bisphenol a-epichlorohydrin-disubstituted polypropylene glycol-polypropylene glycol diglycidyl ether polymer alkylphenyl ethers-disubstituted amine reaction products.
P–17–0317	5/24/2017	8/22/2017	CBI	(G) Additive for electrocoat formulas	(G) Organic acid, compounds with bisphenol a-epichlorohydrin-polypropylene glycol diglycidyl ether polymer-disubstituted polypropylene glycol reaction products.
P–17–0318	5/24/2017	8/22/2017	CBI	(G) Component in nutrient solutions	(G) Sulfuric acid mixed salt.
P–17–0319	5/26/2017	8/24/2017	Inolex Chemical Company.	(S) This material will be used as an emollient for a fabric softener/conditioning product.	(S) L-isoleucine, c12-22-alkyl esters, ethanesulfonates.
P–17–0321	5/30/2017	8/28/2017	CBI	(G) Monitoring of oil/gas well performance	(G) Naphthalene trisulfonic acid sodium salt.

For the 1 TME's received by EPA during this period, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received by EPA during this period: The EPA case number assigned to the TME, the date the TME was received by EPA, the projected end date for EPA's review of the TME, the submitting manufacturer/importer, the potential uses identified by the manufacturer/importer in the TME, and the chemical identity.

TABLE 2—TMES RECEIVED FROM MAY 1, 2017 TO MAY 31, 2017

Case No.	Received date	Projected notice end date	Manufacturer importer	Use	Chemical
T–16–0017	5/25/2016	7/9/2016	CBI	(G) Wax	(G) Modified vegetable oil.

For the 115 NOCs received by EPA during this period, Table 2 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the NOC; the date the NOC was received by EPA; the projected date of commencement provided by the submitter in the NOC; and the chemical identity.

TABLE 3—NOCS RECEIVED FROM MAY 1, 2017 TO MAY 31, 2017

Case No.	Received date	Commencement date	Chemical
P–16–0330	5/1/2017	4/28/2017	(G) Hydroxy functional triglyceride polymer with glycerol mono-ester and 1,1′-methylenebis[4-isocyanatobenzene].
P–16–0338	5/1/2017	4/23/2017	(G) Xanthylium, (sulfoaryl)—bis [(substituted aryl) amino]-, sulfo derivs., inner salts, metal salts.
J–16–0026	5/5/2017	5/3/2017	(G) Trichoderma reesei modified.
J–17–0007	5/26/2017	5/6/2017	(G) Biofuel producing saccharomyces cerevisiae modified, genetically stable.
P–08–0671	5/9/2017	4/13/2017	(S) Hexanedioic acid, polymer with 1,4-butanediol, 1,3-diisocyanatomethylbenzene and 1,2-propanediol.
P–13–0285	5/2/2017	3/22/2017	(G) Substituted aromatic polyamic acid polymer.
P–14–0043	5/23/2017	5/4/2017	(G) Poly[oxy(methyl-1,2-ethanediyl)], alpha.-[methyl-2-[(alkyl)amino]ethyl]-.omega.-[methyl-2-[alkyl)amino]ethoxy].
P–15–0669	5/12/2017	5/2/2017	(S) Glycine, n,n′-1,2-ethanediylbis-, reaction products with formaldehyde, iron chloride (fecl3) and phenol, potassium salts.
P–16–0184	5/10/2017	4/21/2017	(G) Mixture of polyester carboxylates.
P–16–0255	5/4/2017	3/28/2017	(S) 1-butanaminium, n,n,n-tributyl-, carbonate (1:1).
P–16–0256	5/4/2017	3/28/2017	(S) 1-butanamium, n,n,n-tributyl-, methyl carbonate (1:1).
P–16–0257	5/4/2017	3/28/2017	(S) 1-butanaminium, n,n,n-tributyl-, ethyl carbonate (1:1).
P–16–0258	5/4/2017	3/28/2017	(S) 1-butanaminium, n,n,n-tributyl-, propyl carbonate (1:1).
P–16–0259	5/4/2017	3/28/2017	(S) 1-butanaminium, n,n,n-tributyl-, 1-methylethyl carbonate (1:1).
P–16–0289	5/26/2017	5/4/2017	(G) Benzene dicarboxylic acid, polymer with alkane dioic acid and aliphatic diamine.
P–16–0339	5/1/2017	4/23/2017	(G) Substituted triazinyl metal salt, diazotized, coupled with substituted pyridobenzimidazolesulfonic acids, substituted pyridobenzimidazolesulfonic acids, diazotized substituted alkanesulfonic acid, diazotized substituted aromatic sulfonate, diazotized substituted aromatic sulfonate, metal salts.
P–16–0352	5/22/2017	5/14/2017	(S) Phenol, 2-[[[3-(decloxy)propyl]imino]methyl]-.
P–16–0352	5/22/2017	5/14/2017	(S) Phenol, 2-[[[3-(octyloxy)propyl]imino]methyl]-.
P–16–0439	5/1/2017	4/23/2017	(G) Carbon black, (organic acidic carbocyclic)-modified, inorganic salt.
P–16–0440	5/9/2017	5/1/2017	(G) Carbon black, (organic acidic carbocyclic)-modified, metal salt.
P–17–0032	5/31/2017	5/3/2017	(S) 1,3,5-napthalenetrisulfonic acid.
P–17–0033	5/3/2017	3/22/2017	(S) Benzoic acid, 2-fluoro-, sodium salt (1:1).
P–17–0034	5/3/2017	3/22/2017	(S) Benzoic acid, 4-fluoro-, sodium salt (1:1).
P–17–0035	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3,4,5-tetrafluoro-.
P–17–0036	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3,4,5-tetrafluoro-, sodium salt (1:1).
P–17–0037	5/3/2017	3/22/2017	(S) Benzoic acid, 2-(trifluoromethyl)-.
P–17–0038	5/3/2017	3/22/2017	(S) Benzoic acid, 2-(trifluoromethyl)-, sodium salt (1:1).
P–17–0039	5/3/2017	3/22/2017	(S) Benzoic acid, 4-(trifluoromethyl)-, sodium salt.
P–17–0040	5/3/2017	3/22/2017	(S) Benzoic acid, 2,5-difluoro-.
P–17–0041	5/3/2017	3/22/2017	(S) Benzoic acid, 2,5-difluoro-, sodium salt (1:1).
P–17–0042	5/3/2017	3/22/2017	(S) Benzoic acid, 3-fluoro-, sodium salt (1:1).
P–17–0043	5/3/2017	3/22/2017	(S) Benzoic acid, 2,6-difluoro-, sodium salt (1:1).
P–17–0044	5/3/2017	3/22/2017	(S) Benzoic acid, 2,6-difluoro-.
P–17–0045	5/3/2017	3/22/2017	(S) Benzoic acid, 3,5-difluoro-, sodium salt (1:1).
P–17–0046	5/3/2017	3/22/2017	(S) Benzoic acid, 3,5-difluoro-.
P–17–0047	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4-difluoro-, sodium salt (1:1).
P–17–0048	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4-difluoro-.
P–17–0050	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4-difluoro-, sodium salt (1:1).
P–17–0051	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4-difluoro-.
P–17–0052	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4,5-trifluoro-, sodium salt (1:1).
P–17–0053	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4,5-trifluoro-.
P–17–0054	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3,4-trifluoro-.
P–17–0055	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3,4-trifluoro-, sodium salt (1:1).
P–17–0056	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4,5-trifluoro-.
P–17–0057	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4,5-trifluoro-, sodium salt (1:1).
P–17–0058	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3-difluoro-.
P–17–0059	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3-difluoro-, sodium salt (1:1).

TABLE 3—NOCS RECEIVED FROM MAY 1, 2017 TO MAY 31, 2017—Continued

Case No.	Received date	Commencement date	Chemical
P–17–0060	5/3/2017	3/22/2017	(S) Benzoic acid, 3-(trifluoromethyl)-.
P–17–0061	5/3/2017	3/22/2017	(S) Benzoic acid, 3-(trifluoromethyl)-, sodium salt (1:1).
P–17–0062	5/3/2017	3/22/2017	(S) Benzoic acid, 2-chloro-, sodium salt (1:1).
P–17–0063	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-, sodium salt (1:1).
P–17–0064	5/3/2017	3/22/2017	(S) Benzoic acid, 3-chloro-, sodium salt (1:1).
P–17–0065	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3-dichloro-.
P–17–0066	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3-dichloro-, sodium salt (1:1).
P–17–0067	5/3/2017	3/22/2017	(S) Benzoic acid, 2,5-dichloro-, sodium salt (1:1).
P–17–0068	5/3/2017	3/22/2017	(S) Benzoic acid, 3,5-dichloro-.
P–17–0069	5/3/2017	3/22/2017	(S) Benzoic acid, 3,5-dichloro-, sodium salt (1:1).
P–17–0070	5/3/2017	3/22/2017	(S) Benzoic acid, 2,6-dichloro-.
P–17–0071	5/3/2017	3/22/2017	(S) Benzoic acid, 2,6-dichloro-, sodium salt (1:1).
P–17–0072	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4-dichloro-, sodium salt (1:1).
P–17–0073	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4-dichloro-, sodium salt (1:1).
P–17–0074	5/3/2017	3/22/2017	(S) Benzoic acid, 2-chloro-4-fluoro-.
P–17–0075	5/3/2017	3/22/2017	(S) Benzoic acid, 2-chloro-4-fluoro-, sodium salt (1:1).
P–17–0076	5/3/2017	3/22/2017	(S) Benzoic acid, 3-chloro-4-fluoro-, sodium salt (1:1).
P–17–0077	5/3/2017	3/22/2017	(S) Benzoic acid, 5-chloro-2-fluoro-.
P–17–0078	5/3/2017	3/22/2017	(S) Benzoic acid, 3-chloro-4-fluoro-.
P–17–0079	5/3/2017	3/22/2017	(S) Benzoic acid, 5-chloro-2-fluoro-, sodium salt (1:1).
P–17–0080	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-3-fluoro-, sodium salt (1:1).
P–17–0081	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-3-fluoro-.
P–17–0082	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-2-fluoro-.
P–17–0083	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-2-fluoro-, sodium salt (1:1).
P–17–0084	5/3/2017	3/22/2017	(S) Benzoic acid, 5-bromo-2-chloro-.
P–17–0085	5/3/2017	3/22/2017	(S) Benzoic acid, 5-bromo-2-chloro-, sodium salt (1:1).
P–17–0087	5/3/2017	3/22/2017	(S) Benzoic acid, 3-bromo-4-fluoro-, sodium salt (1:1).
P–17–0088	5/3/2017	3/22/2017	(S) Benzoic acid, 3-bromo-4-fluoro-.
P–17–0089	5/3/2017	3/22/2017	(S) Benzoic acid, 2-bromo-5-fluoro-.
P–17–0090	5/3/2017	3/22/2017	(S) Benzoic acid, 2-bromo-5-fluoro-, sodium salt (1:1).
P–17–0091	5/3/2017	3/22/2017	(S) Benzoic acid, 4-bromo-2-fluoro-, sodium salt (1:1).
P–17–0092	5/3/2017	3/22/2017	(S) Benzoic acid, 4-bromo-3-fluoro-.
P–17–0093	5/3/2017	3/22/2017	(S) Benzoic acid, 4-bromo-3-fluoro-, sodium salt (1:1).
P–17–0094	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3,4,5-tetrafluoro-, ethyl ester.
P–17–0095	5/3/2017	3/22/2017	(S) Benzoic acid, 4-(trifluoromethyl)-, ethyl ester.
P–17–0096	5/3/2017	3/22/2017	(S) Benzoic acid, 2-(trifluoromethyl)-, ethyl ester.
P–17–0097	5/3/2017	3/22/2017	(S) Benzoic acid, 4-bromo-2-fluoro-.
P–17–0098	5/3/2017	3/22/2017	(S) Benzoic acid, 2,6-difluoro-, ethyl ester.
P–17–0099	5/3/2017	3/22/2017	(S) Benzoic acid, 2,5-difluoro-, ethyl ester.
P–17–0100	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3,4-trifluoro-, ethyl ester.
P–17–0101	5/3/2017	3/22/2017	(S) Benzoic acid, 2-bromo-5-fluoro-, ethyl ester.
P–17–0102	5/3/2017	3/22/2017	(S) Benzoic acid, 3,5-difluoro-, ethyl ester.
P–17–0103	5/3/2017	3/22/2017	(S) Benzoic acid, 5-bromo-2-chloro-, ethyl ester.
P–17–0104	5/3/2017	3/22/2017	(S) Benzoic acid, 3-chloro-, ethyl ester.
P–17–0105	5/3/2017	3/22/2017	(S) Benzoic acid, 2-chloro-, ethyl ester.
P–17–0114	5/3/2017	3/22/2017	(S) Benzoic acid, 3-chloro-4-fluoro-, ethyl ester.
P–17–0122	5/3/2017	3/22/2017	(S) Benzoic acid, 4-bromo-2-fluoro-, ethyl ester.
P–17–0123	5/3/2017	3/22/2017	(S) Benzoic acid, 2-bromo-4,5-difluoro-, ethyl ester.
P–17–0124	5/3/2017	3/22/2017	(S) Benzoic acid, 4-bromo-3-fluoro-, ethyl ester.
P–17–0125	5/3/2017	3/22/2017	(S) Benzoic acid, 3-bromo-4-fluoro-, ethyl ester.
P–17–0126	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-2-fluoro-, ethyl ester.
P–17–0127	5/3/2017	3/22/2017	(S) Benzoic acid, 2,5-dichloro-, ethyl ester.
P–17–0128	5/3/2017	3/22/2017	(S) Benzoic acid, 4-chloro-3-fluoro-, ethyl ester.
P–17–0129	5/3/2017	3/22/2017	(S) Benzoic acid, 2-chloro-4-fluoro-, ethyl ester.
P–17–0130	5/3/2017	3/22/2017	(S) Benzoic acid, 5-chloro-2-fluoro-, ethyl ester.
P–17–0131	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4-difluoro-, ethyl ester.
P–17–0132	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4-difluoro-, ethyl ester.
P–17–0133	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4,5-trifluoro-, ethyl ester.
P–17–0134	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4,5-trifluoro-, ethyl ester.
P–17–0135	5/3/2017	3/22/2017	(S) Benzoic acid, 3-(trifluoromethyl)-, ethyl ester.
P–17–0136	5/3/2017	3/22/2017	(S) Benzoic acid, 2,3-difluoro-, ethyl ester.
P–17–0137	5/3/2017	3/22/2017	(S) Benzoic acid, 2,6-dichloro-, ethyl ester.
P–17–0138	5/3/2017	3/22/2017	(S) Benzoic acid, 3,5-dichloro-, ethyl ester.
P–17–0139	5/3/2017	3/22/2017	(S) Benzoic acid, 2,4-dichloro-, ethyl ester.
P–17–0140	5/3/2017	3/22/2017	(S) Benzoic acid, 3,4-dichloro-, ethyl ester.
P–17–0158	5/25/2017	2/16/2017	(G) Perylene bis (diisopropylphenyl) bisimide.
P–17–0161	5/22/2017	5/2/2017	(G) 2-propenoic acid, alkyl-, alkyl ester, polymer with alkyl 2-propenoate, dialkyloxoalkyl-2-propenamide, ethenylbenzene and alkyl 2-propenoate.

TABLE 3—NOCS RECEIVED FROM MAY 1, 2017 TO MAY 31, 2017—Continued

Case No.	Received date	Commencement date	Chemical
P–96–1182	5/10/2017	5/9/2017	(G) Inorganic acid, compounds with [(substituted-propyl)imino]bis[alkanol]-bisphenol a-epichlorohydrin-hexahydro-1,3-isobenzofurandione-polyethylene glycol ether with bisphenol a (2:1) polymer-disubstituted amine-alkanolamine reaction products.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: August 7, 2017.

Megan Carroll,

Deputy Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–18779 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2005–0530; FRL–9966–53–ORD]

Proposed Information Collection Request; Comment Request; Application for Reference and Equivalent Method Determination (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Application for Reference and Equivalent Method Determination (Renewal)'' (EPA ICR No. 0559.13, OMB Control No. 2080–0005) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through February 28, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 6, 2017.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2005–0530, online using *www.regulations.gov* (our preferred method), by email to *ord-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Robert W. Vanderpool, Environmental Protection Agency, Exposure Methods and Measurements Division, Air Quality Branch, Mail Drop D205–03, Research Triangle Park, NC 27711; telephone number: 919–541–7877; fax number: 919–541–4848; email address: *Vanderpool.Robert@epa.gov*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: To determine compliance with the NAAQS, State air monitoring agencies are required to use, in their air quality monitoring networks, air monitoring methods that have been formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR part 53. A manufacturer or seller of an air monitoring method (*e.g.* an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR part 53. The EPA uses this information, under the provisions of Part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter ($PM_{2.5}$) and coarse particulate matter ($PM_{10-2.5}$), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods.

Form Numbers: None.

Respondents/affected entities: Private manufacturers, states.

Respondent's obligation to respond: Required to obtain the benefit of EPA designation under 40 CFR part 53. Submission of some information that is claimed by the applicant to be confidential business information may

be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as confidential business information by the applicant will be protected in full accordance with 40 CFR part 53.15 and all applicable provisions of 40 CFR part 2.

Estimated number of respondents: 22 (total).

Frequency of response: Annual.

Total estimated burden: 7,492 hours (per year). Burden is defined in 5 CFR 1320.03(b).

Total estimated cost: $687,044 (per year), includes $140,121 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: August 7, 2017.

Timothy H. Watkins,

Deputy Director, National Exposure Research Laboratory.

[FR Doc. 2017–18766 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2016–0713; FRL–9966–11]

Nominations to the Augmented Science Advisory Committee on Chemicals (SACC); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency published a notice with the names and affiliations of additional candidates for consideration for the Science Advisory Committee on Chemicals (SACC) on August 3, 2017. Public comments were requested to be received by the Docket Identification Number: EPA–HQ–OPPT–2016–0713. This document extends the public comment period from September 5, 2017 to September 17, 2017.

DATES: Comments must be received on or before September 17, 2017.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of August 3, 2017 (82 FR 36132) (FRL–9965–53).

FOR FURTHER INFORMATION CONTACT: Tamue Gibson, M.S., Designated Federal Officer (DFO), Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–7642; email address: *gibson.tamue@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of August 3, 2017 (82 FR 36132) (FRL–9965–53). In that document, of the names and affiliations of additional candidates for membership to the SACC with a request for public comments by September 5, 2017. This document extends the public comment due date to September 17, 2017.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of August 3, 2017. If you have any questions, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 15 U.S.C. 2625 *et. seq.;* 5 U.S.C. Appendix 2 *et. seq.*

Dated: August 17, 2017.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–18778 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2016–0671; FRL–9963–53]

Pesticides; Draft Guidance for Pesticide Registrants on Notifications, Non-Notifications and Minor Formulation Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of and seeking public comment on a draft Pesticide Registration Notice (PR Notice) entitled ''Pesticide Registration (PR) Notice 2017–XX: Notifications, Non-notifications and Minor Formulation Amendments.'' PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular draft PR Notice provides updated guidance to PR Notice 98–10, in line with current regulatory statutes (PRIA) to the registrant and other interested parties for notifications, non-notifications and minor formulation amendments.

DATES: Comments must be received on or before October 6, 2017.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2016–0671, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are required to submit data under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), are required to register pesticides. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not

contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

C. How can I get copies of this document and other related information?

A copy of the draft PR notice is available in the docket under docket identification (ID) number EPA–HQ–OPP–2016–0671.

II. What guidance does this PR Notice provide?

This draft PR Notice provides guidance to the registrant concerning the process for notifications, non-notifications and minor formulation amendments. This proposed notice updates and clarifies the scope of changes accepted by notification, non-notification and minor formulation amendments for all pesticide products. This notice supersedes both PR Notices 95–2 and 98–10 in their entirety. As per 40 CFR 152.46, EPA may determine that certain minor modifications to a registration having no potential to cause unreasonable adverse effects to the environment may be accomplished by notification or without notification to the Agency. Since the issuance of PR Notice 98–10, various regulatory and statutory changes have taken place. In particular, the Pesticide Registration Improvement Act (PRIA), the Pesticide Registration Improvement Renewal Act (PRIA 2), Pesticide Registration Improvement Extension Act (PRIA 3), and pending Pesticide Registration Enhancement Act of 2017 (PRIA 4) has resulted in a need for EPA to revise the notification procedures. Certain actions previously accepted under PR Notice 98–10 are now actions scheduled by the PRIA action tables. EPA is issuing this notice to align the notification program with the requirements of the Food Quality Protection Act (FQPA) and PRIA and to clarify the processes for accepting minor, low risk registration amendments to be accomplished through notification, non-notification or as accelerated amendments, previously established in PR Notice 98–10. EPA believes these changes will be useful to registrants as it presents a clarified and consolidated explanation for accomplishing these registration changes. No significant impacts or costs are expected as a result of this proposed PR Notice. However, the Agency is especially requesting impacted parties to provide through comments available information on projected cost implications of this draft updated guidance. The Paperwork Reduction Act (PRA) burdens associated with revisions to the PR Notice are accounted for in the current ICR entitled: Application for New and Amended Pesticide Registration, OMB ICR 2070–0060; EPA No. 0277.17. As noted above, no increase or decrease in the current PRA burden inventory is anticipated.

III. Do PR Notices contain binding requirements?

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 2, 2017.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

[FR Doc. 2017–18765 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9967–00–OA]

Notification of a Public Meeting of the Science Advisory Board Chemical Assessment Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Chemical Assessment Advisory Committee (CAAC) to receive a briefing from the EPA's National Center for Environmental Assessment (NCEA) on the content and presentation of assessment products to be released at early stages of development of draft assessments. These products represent an update to the materials released for the purposes of early stakeholder engagement, as outlined in the ''IRIS enhancements'' (2013). These materials are expected to add transparency to draft assessment development, while simultaneously increasing throughput and responsiveness to Agency needs.

DATES: The public face-to-face meeting will be held from Wednesday, September 27, 2017 through Thursday, September 28, 2017, from 9:00 a.m. to 5:00 p.m., (Eastern time) daily.

ADDRESSES: The public meeting will be held at Residence Inn Arlington Capital View, 2850 S. Potomac Ave., Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain further information concerning the meeting may contact Dr. Suhair Shallal, Designated Federal Officer (DFO), SAB Staff Office, by telephone at (202) 564–0257 or *shallal.suhair@epa.gov.* General information concerning the EPA Science Advisory Board, as well as any updates concerning the meeting announced in this notice, can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB CAAC will hold a public meeting to receive a briefing from the EPA's National Center for Environmental Assessment (NCEA) on the content and presentation of assessment products to be released at early stages of draft development. These products represent an update to the materials released for the purposes of early stakeholder engagement, as outlined in the ''IRIS enhancements'' (2013). These materials are expected to add transparency to draft assessment development, while simultaneously increasing throughput and responsiveness to Agency needs. The CAAC will provide advice to the Administrator through the chartered SAB.

The NCEA continues to incorporate improvements in response to recommendations from the National Research Council and the SAB to (1) improve the scientific integrity of assessments; (2) improve the

productivity of the program; and (3) increase transparency so issues are identified early in the process. Information about this program is available at: *https://www.epa.gov/iris.*

Availability of Meeting Materials: Additional background on this SAB activity, the meeting agenda, and other materials for the meeting will be posted on the SAB Web site at *http://www.epa.gov/sab.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Members of the public can submit relevant comments pertaining to the meeting materials or the group conducting this SAB activity. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for SAB committees and panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker. Interested parties wishing to provide comments should contact Dr. Suhair Shallal, DFO (preferably via email) at the contact information noted above by September 20, 2017, to be placed on the list of public speakers for the meeting.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by Committee members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by September 20, 2017. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Suhair Shallal at (202) 564–0257 or at *shallal.suhair@epa.gov.* To request accommodation of a disability, please contact Dr. Shallal preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 21, 2017.

Christopher Zarba,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2017–18764 Filed 9–5–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–17–17AUQ; Docket No. CDC–2017–0064]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on Mobile Proximity Initial User Feedback information collection project.

DATES: Written comments must be received on or before November 6, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0064 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of

collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Mobile Proximity Initial User Feedback—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As a part of The National Institute for Occupational Safety and Health (NIOSH) Pittsburgh Mining Research Division (PMRD) project *Design of Proximity Systems for Underground Mobile Equipment,* NIOSH researchers are looking to assess the current state of proximity systems being used by industry. In conjunction with performance based testing, researchers are examining the human factors aspects of the systems and their implementations. NIOSH is requesting a three-year OMB approval to collect information.

Striking, pinning, and crushing injuries are a serious concern in underground coal mining, especially around mobile equipment. Between 2010 and 2014 powered haulage accounted for 24 of the 110 underground coal fatalities (NIOSH, 2016). During that same time period, the Mine Safety and Health Administration (MSHA) determined that up to 9 of these fatalities were striking, pinning, or crushing accidents that may have been prevented by proximity detection systems on coal haulage machines or scoops (MSHA, 2016a). Following the final rule requiring proximity detection systems on continuous mining machines, on September 2, 2015, MSHA published a proposed rule requiring proximity systems on mobile machines in underground coal mines (MSHA, 2015a; 2015b). Though the rule is still under development, MSHA reported that by June of 2015, 155 of approximately 2,116 coal haulage machines and scoops had been equipped with proximity detection systems (MSHA, 2016b).

On January 9 of 2017, MSHA reopened the comment period for equipping underground mobile machines with proximity detection systems. MSHA reopened the comment period for two key reasons. First, MSHA reopened the comment period to explore any additional comments raised during or following the closing of the original comment period. Second, MSHA reopened the comment period to allow for comments on a field-report on proximity detection system utilization in South Africa, which was conducted following the original comment period and presented at the June 22, 2016 NIOSH Proximity Detection Partnership Meeting. Some of concerns raised were related to the potential risks that proximity detection systems on mobile equipment might pose for mine workers. The comments included risk such as those associated with performing routine maintenance and troubleshooting tasks, machine movements, which may result in pinning, crushing, or striking accidents, and sudden equipment stops which may harm machine operators.

NIOSH researchers are looking to determine the critical use cases for proximity systems on mobile equipment in underground mines. Researchers would like to answer the following questions: (1) In which situations do proximity detection systems on mobile haulage hinder normal operation? and (2) in which situations do proximity detection systems on mobile haulage endanger miners? Researchers are also interested in determining what factors should be considered related to human machine interfaces when implementing proximity systems on mobile equipment in underground mines. Specifically, researchers hope to answer the following questions: (1) What is the expected behavior of a proximity detection system on mobile haulage? and (2) What are the desired user features of a proximity detection system on mobile haulage?

Previously, NIOSH conducted a pilot study on proximity detection systems on mobile equipment used in underground coal mines. The pilot study involved determining the required stopping distances and times for mobile equipment. Findings from the pilot study identified a need for additional research related to the performance of proximity detection systems on mobile equipment. Even though the pilot study and related, subsequent studies offer findings, which may potentially compliment findings from the proposed study, these studies were not specifically designed to focus on human factors. Conversely, the proposed study focuses on human factors influencing the safety and effectiveness of proximity systems installed on underground mobile equipment.

The proposed research study involves conducting semi-structured interviews and optional observations of regularly assigned job duties with a maximum of 250 mining crew members. To recruit the mines, operators will be contacted. The recruitment conversation is expected to last 15 minutes.

Up to 250, 10-minute, semi-structured interviews will be conducted to collect workers' experiences with and perspectives on current proximity detection systems on mobile haulage equipment. To capture a variety of perspectives, various members of the section crews will be invited to participate in the interviews.

Prior to the interview, miners will be read a verbal informed consent and asked to give verbal affirmation that they agree to participate in the study. Workers that do not wish to participate will be given the opportunity to leave. Following the interviews, a subset of mine workers will be observed as a section crew of 7 to 13 individuals performing their normal duties for an hour during their shift. The observation component is optional for the individuals. Since the participant will be performing regular job duties during the observation, this does not require any additional time from the participant. To observe crew members in a designated section, researchers will obtain verbal consent from all miners who may be observed. If a crew member working in a designated section chooses to be excluded from the study, the section will not be observed. Observation will focus on general behavior with and around the proximity system.

The total estimated time burden is 44 hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Mine Operators	Mine Recruitment Script	6	1	15/60	2

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Crew Members	Interview protocol	250	1	10/60	42
Total					44

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2017–18814 Filed 9–5–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–4642]

B. Braun Medical, Inc.; Withdrawal of Approval of Three New Drug Applications and One Abbreviated New Drug Application; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document entitled ''B. Braun Medical, Inc.; Withdrawal of Approval of Three New Drug Applications and One Abbreviated New Drug Application'' that appeared in the **Federal Register** of August 3, 2017 (82 FR 36150). The document was published with the incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Lisa Granger, Office of Policy, Food and Drug Administration, Bldg. 32, Rm. 3330, Silver Spring, MD 20993–0002, 301–796–9115.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Thursday, August 3, 2017, in FR Doc. 2017–16377, on page 36150, the following correction is made:

1. On page 36150, in the second column, in the header of the document, ''Docket No. FDA–2017–N–0002'' is corrected to read ''Docket No. FDA–2017–N–4642''.

Dated: August 28, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18813 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–4625]

Development of a List of Pre-Dietary Supplement Health and Education Act Dietary Ingredients; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the following public meeting entitled ''Development of a List of Pre-DSHEA Dietary Ingredients.'' The purpose of the meeting is to give interested stakeholders an opportunity to discuss issues related to FDA's future development of such a list.

DATES: The public meeting will be held on October 3, 2017, from 8 a.m. to 5 p.m. Submit either electronic or written comments on this public meeting by December 4, 2017. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at FDA's Center for Food Safety and Applied Nutrition, Wiley Auditorium, 5001 Campus Dr., College Park, MD 20740.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before December 4, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of December 4, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–4625 for ''Development of a List of Pre-DSHEA Dietary Ingredients; Public Meeting; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential

information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 12, 2016 (81 FR 53486), we issued a notice announcing the availability of a revised draft guidance for industry entitled, ''Dietary Supplements: New Dietary Ingredient Notifications and Related Issues.'' [1] The revised draft guidance, when finalized, will help industry in evaluating whether to submit a premarket safety notification for a new dietary ingredient (NDI), or for a dietary supplement containing an NDI, and in preparing such premarket safety notifications (also referred to as NDI notifications). The Dietary Supplement Health and Education Act of 1994 (DSHEA) (Pub. L. 103–417) amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) by adding, among other provisions: (1) Section 201(ff) of the FD&C Act (21 U.S.C. 321(ff)), which defines the term ''dietary supplement'' and (2) section 413 of the FD&C Act (21 U.S.C. 350(b)), which describes requirements for NDIs. Under DSHEA, dietary ingredients marketed in the United States before October 15, 1994, are not NDIs and therefore are not subject to the premarket notification requirements in section 413 of the FD&C Act. The revised draft guidance addressed, among other things, considerations related to determining when a dietary ingredient is not new and therefore does not require a NDI notification.

In the revised draft guidance, we stated our willingness to compile an authoritative list of pre-October 15, 1994, dietary ingredients based on independent and verifiable data to be supplied by industry. Although we are aware that several trade associations and industry groups have independently developed their own unofficial lists of ingredients that they believe were marketed before October 15, 1994 (sometimes referred to as ''grandfathered'' or ''old'' dietary ingredients), we are unable to verify the accuracy of those lists and therefore have never recognized or sanctioned any of them. We also have never compiled our own list.

An authoritative list would provide benefits to both industry and FDA. By providing clarity as to which ingredients do not require notifications, it would alleviate the burden on industry of preparing and submitting unnecessary notifications. Similarly, by eliminating unnecessary notifications, an authoritative list would enable us to more efficiently use our limited resources to review notifications for truly ''new'' ingredients. In addition, an authoritative list would allow us to better focus our enforcement efforts in alignment with our strategic priorities of consumer safety, product integrity, and accurate information.

We have received and are reviewing comments on the 2016 revised draft guidance. The comments generally support the idea that we should develop a list of pre-DSHEA dietary ingredients, but reflect opinions both on the standard of evidence for demonstrating that an ingredient is pre-DSHEA and on the process by which ingredients should be added to the list. We believe that public discussion of these issues will be beneficial as we work toward development of a list of pre-DSHEA dietary ingredients.

II. Topics for Discussion at the Public Meeting

The public meeting will have two separate panels. Each panel will be followed by an opportunity for open public comment. In addition, there will be an opportunity for interested stakeholders to submit additional written comments following the meeting.

The first panel will discuss what standard of evidence is necessary to determine that an ingredient was marketed before October 15, 1994. This panel may address, among other things, what types and quantity of evidence may suffice to demonstrate that a dietary ingredient was marketed in the United States prior to October 15, 1994, as well as how specifically or generally an ingredient on the list may be identified depending on the evidence presented for that ingredient. In addition, this discussion may also address whether certain botanical preparations can be accepted as ''old'' if the plant is demonstrated to be ''old,'' and whether certain classes of ingredients can be considered ''old'' based on common documentation. During the open comment period following this first panel, we will specifically invite comment about whether there are any considerations specific to certain classes or types of ingredients that should be taken into account as we develop the list.

The second panel will discuss issues related to the process that should be used to develop the list. This includes, but is not limited to, the processes for nominating and reviewing ingredients; whether an outside panel should be convened and, if so, the composition and role of that panel; how information that is claimed to be confidential should be treated; and what the ultimate list should look like.

The topics discussed at the public meeting, both during the panel discussions and during open public comment periods, as well as written comments submitted after the meeting, will help us determine how to develop this list of old dietary ingredients.

III. Participating in the Public Meeting

Registration: To register for the public meeting, please visit the following Web site: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.* Please provide complete

[1] *https://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/dietarysupplements/ucm257563.htm.*

contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by midnight Eastern Time on September 25, 2017. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted.

If you need special accommodations due to a disability, please contact Juanita Yates (see **FOR FURTHER INFORMATION CONTACT**) no later than September 18, 2017.

Requests for Oral Presentations: During online registration you may indicate if you wish to present during a public comment session and which topic(s) you wish to address. We will do our best to accommodate requests to make public comments. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations and request time for a joint presentation. All requests to make oral presentations must be received by September 18, 2017. We will determine the amount of time allotted to each presenter and will select and notify participants by September 25, 2017.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast. Please visit the following Web site to register: *https://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the Internet at *https://www.fda.gov/Food/DietarySupplements/default.htm.*

Dated: August 28, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18812 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Food and Drug Administration, Center for Drug Evaluation and Research Rare Diseases Public Workshop: Strategies, Tools, and Best Practices for Effective Advocacy in Rare Diseases Drug Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), is sponsoring a public workshop entitled ''CDER Rare Diseases Public Workshop: Strategies, Tools, and Best Practices for Effective Advocacy in Rare Diseases Drug Development.'' This public workshop builds upon previous CDER patient advocacy public workshops and is primarily for the rare disease community to help them effectively understand what FDA needs to enhance drug development. This effort is consistent with FDA's efforts to support the integration of patient experience in drug development programs, including through implementation of the ''Patient-Focused Drug Development'' provisions of the 21st Century Cures Act (Cures Act). This public workshop will include case studies demonstrating the beneficial overlap of effective advocacy techniques and FDA regulations in rare disease drug development.

DATES: The public workshop will be held on October 30, 2017, from 8 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 (the Great Room), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Francis Kalush, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–5429, *PASE-RARE-DISEASES@fda.hhs.gov*

SUPPLEMENTARY INFORMATION: FDA is announcing a public workshop entitled ''CDER Rare Diseases Public Workshop: Strategies, Tools, and Best Practices for Effective Advocacy in Rare Diseases Drug Development.'' The purpose of the public workshop, consistent with FDA's broad effort to more comprehensively include patients' perspectives and experiences with a disease or condition in the drug development process, including through implementation of the ''Patient-Focused Drug Development'' provisions of the Cures Act, is to aid in bridging the gap between rare disease patients' stories and data needed to support drug development. This public workshop will include presentations on strategies, tools, and best practices on key aspects of rare diseases drug development and engaging with FDA. There will be an opportunity for questions and answers following each presentation.

Registration: There is no registration fee to attend the public workshop. Early registration is recommended because seating is limited, and registration will be on a first-come, first-served basis. There will be no onsite registration. Persons interested in attending this public workshop must register online at *https://www.fda.gov/Drugs/NewsEvents/ucm565398.htm* before September 30, 2017. For those without internet access, please contact Francis Kalush (see **FOR FURTHER INFORMATION CONTACT**) to register.

If you need special accommodations due to a disability, please contact Francis Kalush (see **FOR FURTHER INFORMATION CONTACT**) no later than October 23, 2017.

Transcripts: A transcript of the public workshop will be available for review at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and on the internet at *https://www.regulations.gov* approximately 30 days after the public workshop. Transcripts will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on the Agency's Web site at *https://www.fda.gov.*

Dated: August 30, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18810 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–P–2675]

Determination That GYNOREST (Dydrogesterone) Oral Tablets, 5 Milligrams and 10 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that GYNOREST (dydrogesterone) oral tablets, 5 milligrams (mg) and 10 mg, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Stefanie Kraus, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6214, Silver Spring, MD 20993–0002, 301–796–9585.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, are the subject of NDA 017388, held by Solvay Pharmaceuticals (Solvay), and initially approved on October 31, 1978. GYNOREST is indicated for amenorrhea and abnormal uterine bleeding due to hormonal imbalance in the absence of organic pathology, such as submucous fibroids or uterine cancer.

Solvay never marketed GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, under NDA 017388.[1] In previous instances (see *e.g.,* 72 FR 9763, March 5, 2007, and 61 FR 25497, May 21, 1996), the Agency has determined that, for purposes of §§ 314.61 and 314.162, never marketing an approved drug product is equivalent to withdrawing the drug from sale. In a letter dated June 1, 1992, Solvay requested withdrawal of NDA 017388 for GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg. In the **Federal Register** of June 25, 1993 (58 FR 34466), FDA announced that it was withdrawing approval of NDA 017388, effective July 26, 1993.

Foley and Lardner LLP submitted a citizen petition dated September 7, 2016 (Docket No. FDA–2016–P–2675), under 21 CFR 10.30, requesting that the Agency determine whether GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records, and based on the information we have at this time, FDA has determined under § 314.161 that GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner states that GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, were not withdrawn for reasons of safety and effectiveness because the active pharmaceutical ingredient dydrogesterone and the drug product dydrogesterone tablets have a monograph in the current United States Pharmacopeia, public information indicates that Solvay discontinued the product for commercial reasons, there has been no notice in the **Federal Register** reflecting an Agency determination that the product was withdrawn for reasons of safety or effectiveness, and dydrogesterone oral tablets are being sold in many other countries.

We have carefully reviewed our files for records concerning the withdrawal of GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, from sale. We have also independently evaluated relevant literature and data for possible post-marketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to GYNOREST (dydrogesterone) oral tablets, 5 mg and 10 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 28, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18816 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

[1] GYNOREST was marketed in the United States under a supplement to NDA 012985 for DUPHASTON (dydrogesterone, oral tablets). Distribution of GYNOREST under the DUPHASTON NDA discontinued around 1981.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–4852]

Design Considerations and Premarket Submission Recommendations for Interoperable Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the guidance entitled ''Design Considerations and Pre-market Submission Recommendations for Interoperable Medical Devices.'' FDA is issuing this guidance to assist industry and FDA staff in identifying specific considerations related to the ability of electronic medical devices to safely and effectively exchange and use exchanged information. This document highlights considerations that should be included in the development and design of interoperable medical devices and provides recommendations for the content of premarket submissions and labeling for such devices.

DATES: The announcement of the guidance is published in the **Federal Register** on September 6, 2017.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–4852 for ''Design Considerations and Premarket Submission Recommendations for Interoperable Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Design Considerations and Premarket Submission Recommendations for Interoperable Medical Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002 or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Heather Agler, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5570, Silver Spring, MD 20993–0002, 301–796–6340; and Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 301–240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

The need and desire to connect medical devices to other products, technologies, and systems is growing in the health care community. As electronic medical devices are increasingly connected to each other and to other technology, the ability of these connected systems to safely and effectively exchange information and use the information that has been exchanged becomes increasingly important. Advancing the ability of medical devices to exchange and use information safely and effectively with other medical devices, as well as other technology, offers the potential to increase efficiency in patient care.

FDA intends to promote the development and availability of safe and effective interoperable medical devices. FDA is issuing this guidance to assist industry and FDA staff in identifying specific considerations related to the ability of electronic medical devices to safely and effectively exchange information and use exchanged information. This document highlights considerations that should be included in the development and design of interoperable medical devices and

provides recommendations for the content of premarket submissions and labeling for such devices.

In the **Federal Register** of January 26, 2016 (81 FR 4303), FDA announced the availability of the draft of this guidance and interested persons were invited to comment by March 28, 2016. The comment period was extended on February 23, 2016 (81 FR 8966), to April 28, 2016. FDA has considered all of the public comments received in finalizing this guidance.

FDA recognizes and anticipates that the Agency and industry may need up to 60 days to perform activities to operationalize the policies within the guidance. If new information regarding device interoperability as outlined in this guidance is not included in a premarket submission received by FDA before or up to 60 days after the publication of this guidance, CDRH staff does not generally intend to request such information during the review of the submission. CDRH does, however, intend to review any such information if submitted.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Design Considerations and Premarket Submission Recommendations for Interoperable Medical Devices.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

III. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, subparts A through E, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H have been approved under OMB control number 0910–0332; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; the collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485; and the collections of information in 21 CFR parts 610 and 660 have been approved under OMB control number 0910–0338.

IV. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *https://www.regulations.gov.* Persons unable to download an electronic copy of ''Design Considerations and Premarket Submission Recommendations for Interoperable Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1500015 to identify the guidance you are requesting.

Dated: August 30, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–18815 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–P–2496]

Determination That RITALIN LA (Methylphenidate Hydrochloride) Extended-Release Capsules, 60 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 milligrams (mg), were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for methylphenidate hydrochloride extended-release capsules, 60 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Christopher Koepke, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993–0002, 240–402–3543.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (21 CFR 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, are the subject of NDA 021284, held by Novartis Pharmaceuticals Corp. (Novartis) and initially approved on October 27, 2014. RITALIN LA is indicated for the

treatment of Attention Deficit Hyperactivity Disorder (ADHD).

In a letter dated March 23, 2016, Novartis notified FDA that RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, were being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Abhai, LLC, submitted a citizen petition dated April 19, 2017 (Docket No. FDA–2017–P–2496), under 21 CFR 10.30, requesting that the Agency determine whether RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records, and based on the information we have at this time, FDA has determined under § 314.161 that RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that this drug product was not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to RITALIN LA (methylphenidate hydrochloride) extended-release capsules, 60 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 28, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–18817 Filed 9–5–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group; Clinical Aging Review Committee.

Date: October 5–6, 2017.

Time: 3:30 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Alicja L. Markowska, Ph.D., DSC, National Institute on Aging, National Institutes of Health, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 30, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18805 Filed 9–5–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, September 12, 2017, 1:00 p.m. to September 12, 2017, 4:00 p.m., National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Conference Room TE406 and TE408, Rockville, MD, 20850 (Virtual Meeting) which was published in the **Federal Register** on August 14, 2017, 82 FR 37885.

The meeting notice is amended to change the times of the open and closed sessions. The open session will end at 2:15 p.m. The closed session will begin at 2:30 p.m. and end at 3:30 p.m. The meeting is partially closed to the public.

Dated: August 30, 2017.

Melanie J. Pantoja,

Program Analyst Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18804 Filed 9–5–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–15–067: NIDDK Multi-Center Clinical Study Cooperative Agreement (U01): CKD and Bone Mineral Disorders in Children.

Date: October 2, 2017.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, PAR–16–126: High Impact, Interdisciplinary Science in NIDDK

Research Areas (RC2)—Diabetes, Endocrinology and Metabolic Diseases.

Date: October 10, 2017.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–16–034: Ancillary Studies on Diabetes.

Date: October 12, 2017.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7013, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–7682, *campd@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–B Conflict.

Date: October 18, 2017.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 30, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–18806 Filed 9–5–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[OMB Control Number 1653–0022]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Immigration Bond

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day notice.

The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (USICE) is submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on June 26, 2017, Vol. 82 FR 28874, allowing for a 60-day public comment period. USICE did not receive any comment in connection with the 60-day notice. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1653–0022.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Immigration Bond.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–352; USICE.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individual or Households, Business or other non-profit. Form I–352 is used by USICE to ensure the person or company posting the bond is aware of the duties and responsibilities associated with the bond. The collection instrument serves the purpose of instruction in the completion of the form, together with an explanation of the terms and conditions of the bond. Sureties have the capability of accessing, completing and submitting a bond electronically through USICE's eBonds system, while individuals are required to complete the bond form manually.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,500 annual burden hours.

Dated: August 30, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017–18809 Filed 9–5–17; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–49]

30-Day Notice of Proposed Information Collection: Public Housing Financial Management Template

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of

Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 6, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 20, 2017 at 82 FR 28086.

A. Overview of Information Collection

Title of Information Collection: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Type of Request: Revision of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Financial Standards Rule (24 CFR part 5, subpart H) and the asset management requirements in 24 CFR part 990, the Department developed financial management templates that public housing agencies (PHAs) use to annually submit electronically financial information to HUD. HUD uses the financial information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a comprehensive financial assessment of the PHAs receiving federal funds from HUD.

Respondents (*i.e.,* affected public): Public Housing Agencies (PHAs).

Estimated Annual Reporting and Recordkeeping Burden: The estimated number of respondents is 3,916 PHAs that submit one unaudited financial management template annually and 3,538 PHAs that submit one audited financial management template annually, for a total of 7,454 responses. The average number of hours for each PHA response is 5.33 hours, for a total reporting burden of 39,721 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 30, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–18851 Filed 9–5–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–51]

30-Day Notice of Proposed Information Collection: Public Housing Annual Contributions Contract and Inventory Removal Application

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date: October 6, 2017.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION, CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 1, 2016 at 81 FR 10651.

A. Overview of Information Collection

Title of Information Collection: Public Housing Annual Contributions Contract and Inventory Removal Application.

OMB Approval Number: 2577–0075.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–51999, HUD–52190, HUD–52840–A, HUD–53012, HUD–52860, HUD 52860–A, HUD 52860–B, HUD 52860–C; HUD 52860–D; HUD 52860–E, HUD 52860–F, HUD–52860–G, and HUD–5837.

Description of the need for the information and proposed use: HUD previously amended this information collection to consolidate all information that PHAs are required to submit to HUD in connection with their contractual duties to operate and remove public housing dwelling units and other real property under the United States Housing Act of 1937 (1937 Act) (42 U.S.C § 1437g).

Annual Contributions Contract (ACC) (HUD–53012). Section 9 of the 1937 Act

permits the Secretary of HUD to make grants (i.e, annual contributions contracts) to Public Housing Agencies (PHAs) to achieve and maintain the lower income character of public housing projects. The Secretary is required to embody the provisions for such payments in an agreement (*i.e.,* ACC). The purpose of the ACC is to establish the grant agreement between each Public Housing Agency (PHA) and HUD. The ACC establishes the basic terms and conditions for the PHA's public housing program and requires the PHA to manage and operate all of its public housing properties in accordance with the U.S. Housing Act of 1937 and all applicable HUD Requirements. This collection amends this ACC document by merging the current HUD–53012–A and HUD–53012–B forms into one document and adding requirements applicable to mixed-finance public housing development and making minor clarifications and updates, based on applicable statutes and regulations, on the contractual agreement.

Declaration of Trust (DOT) (HUD–51290). The purpose of the Declaration of Trust (DOT) is to require PHA's to remain seized of the title of public housing projects and other real property and to refrain from transferring, conveying, assigning, leasing, mortgaging, pledging, or otherwise encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of said property or any part thereof, appurtenances thereto, or any rent, revenues, income, or receipts therefrom or in connection therewith, or any of the benefits or contributions granted to it by or pursuant to the ACC. This collection amends this ACC document by merging the current HUD–51290–A (development) and HUD–51290–B (modernization) forms, into one document, as well as adding the Declaration of Restrictive Covenants (DORC) document for mixed-finance public housing developments into one form.

General Depository Agreement (GDA) (HUD–51999). The purpose of the General Depository Agreement (GDA) is to ensure PHAs use all program receipts received from HUD or otherwise associated with public housing funds for purposes of public housing, by requiring such financial assistance to be deposited into interest-bearing accounts at financial institutions whose deposits or accounts are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). This collection makes a small change to the Notice provision of the GDA to require that notice be implemented by the Depository within 24 hours of receipt. The GDA is an agreement between the PHA and the Depository and establishes the terms and conditions dictating the investment policies for the PHAs deposits.

Inventory Removal Application (HUD–52860). The purpose of the Inventory Removal Application (HUD–52860) is to ensure PHAs comply with the statutory and regulatory requirements when removing public housing projects and other real property subsidized by HUD from their inventory through various programs, including Sections 18, 22, 33, 32 of the 1937 Act and eminent domain settlement agreements and retentions under 2 CFR 200.311. This application and approval process also ensures an accurate and up-to-date building and unit count for the PHA. HUD uses the PHA's inventory of buildings and units for various purposes, such as funding and property inspections. This collection modifies this form to make it a better-tailored ''global'' form that applies to all removal actions. It is required in addition to the addendum related to the specific removal program.

Demolition/Disposition Addendum (HUD–52860–A). This collection adds this new addendum to specifically address the requirements of 24 CFR part 970 for demolition and disposition removals. These requirements were previously included in the global HUD–52860.

Total Development Cost (TDC) and Rehab Cost Estimate Addendum (HUD–52860–B). This information is required for all Inventory Removal Applications that propose a demolition under 24 CFR 970.15 or a disposition under 24 CFR 970.17 based on physical obsolescence. This collection makes formatting and instructional changes and refers users to the applicable HUD notice for more guidance.

Homeownership Addendum (HUD–52860–C). This information is required for all Inventory Removal Applications that propose a homeownership program under 24 CFR part 906. This collection makes formatting, instructional and other changes to provide clearer direction and to ensure PHAs are fully complying with the requirements of 24 CFR part 906.

Required Conversion Addendum (HUD–52860–D). This information is required for all Inventory Removal Applications that propose a required conversion under 24 CFR 972-Subpart A. This collection makes minor formatting, instructional and other changes to provide clearer direction and to ensure PHAs are fully complying with the requirements of 24 CFR part 972 Subpart-A.

Voluntary Conversion Addendum (HUD–52860–E). This information is required for all Inventory Removal Applications that propose a required conversion under 24 CFR 972-Subpart B. This collection makes minor formatting, instructional and other changes to provide clearer direction and to ensure PHAs are fully complying with the requirements of 24 CFR part 972 Subpart-B.

Eminent Domain Addendum (HUD–52860–F). This information is required for all Inventory Removal Applications that propose settlement agreement (in lieu of court proceedings) for public housing projects and other public housing property that taking entity proposes to condemn through eminent domain proceedings under applicable state law. This collection makes minor formatting, instructional and other changes to provide clearer direction and to ensure PHAs are fully complying with the requirements of PIH Notice 2012–8.

Retention Addendum (HUD–52860–G). This collection adds a new form that applies to PHAs who are requesting to retain certain public housing property in accordance with 2 CFR 200.311(c) and PIH Notice 2016–20.

Notification of Closeout or Future Public Housing Development (HUD–5837). This collection adds a new form that applies to PHAs who are intending to remove all dwelling units in their portfolio from their inventory. This is notification to HUD of a PHA's intention to either closeout from the public housing program or develop new public housing units. Such removal may be through any available law or HUD program, which may include Sections 18, 22, 33, 32 of the U.S. Housing Act of 1937 or the Rental Assistance Demonstration (RAD) program). This form will alert HUD about its future plans for either termination of the public housing ACC or development of new dwelling units. HUD will use this information to provide targeted technical assistance, to ensure HUD has an accurate database of federal public housing inventory and assets, and to monitor PHA compliance with the ACC and applicable federal laws and regulations.

Capital Fund Program Amendment to the ACC (HUD–52840–A). This form amends a PHA's ACC each time HUD provides Capital Fund Program (CFP) assistance to a PHA for capital and management activities of PHA developments. This collection amends this form to change its format from PDF/Word to Excel only.

This collection notes that in a previous amendment of this collection 2577–0075, functions and activities for Public Housing Annual Contributions Contract that were under OMB control number 2577–0270 were merged into this collection 2577–0075 and the Office Management and Budget (OMB) approved discontinuation of OMB Control Number 2577–0270.

Respondents: Public Housing Agencies.

ACC provision	Total responses	Burden hours per response	Total hours	Cost per hour ($)	Total Cost ($)
1. Execute new ACC via HUD form 53012–A and B	40	5.5	220	24.83	5,463
2. Terminate or amend ACC via HUD–5837	40	9.8	390	24.83	9,684
3. Request HUD approval of non-dwelling leases or agreements	114	6.4	735	24.83	18,250
4. HUD approval for easement uses	48	73.4	3524	24.83	87,501
5. Submit General Depository Agreement (GDA) via form HUD 51999	265	2.5	651	24.83	16,164
6. Request to terminate GDA	107	1.9	202	24.83	5,016
7. ACC revisions to change year end dates	23	11.2	257	24.83	6,381
8. ACC to consolidate PHAS	18	12.1	217	24.83	5,388
9. ACC revision to transfer programs	43	9.1	391	24.83	9,709
10. Request review of Conflict of interest	102	9.3	951	24.83	23,613
11. Request pooling of insurance	5	19.4	97	24.83	2,409
12. Request for new Declaration of Trust (DOT) via form HUD 52190–A and B	142	8.8	1249	24.83	31,013
13. Request DOT amendment or termination	221	9.2	2031	24.83	50,430
14. Amend ACC for Capital Fund Finance via form HUD 52840–A	73	10.8	788	24.83	19,566
15. Amend ACC for Mixed Finance Supplementary Legal Document	94	21.1	1981	50	99,050
16. Amend ACC for Capital Grant	2820	3.9	11,070	24.83	274,868
17. Amend ACC for Emergency Capital Fund Grant	38	2.6	100	24.83	2,483
18. Amend ACC Capital Fund for Safety and Security	75	1.3	96	24.83	2,384
19. Amend ACC to Recapture Capital Fund Grant	123	5.2	643	24.83	15,966
20. Amend ACC for Energy Performance Contract	38	5.1	192	24.83	4,767
21. Amend ACC for Community Facilities Grants	13	2.2	28	24.83	695
22. Removal of public housing property from ACC through Section 18, 22, 33, 32, retentions, or eminent domain, via HUD form 52860	112	3	240	33.72	12,139
23. Removal of public housing property from ACC through demolition and/or disposition, including de minims, via (Section 18) via HUD form 52860–A	80	3	240	33.72	12,139
24. Removal of public housing property from ACC through demolition and/or disposition, when justified by physical obsolescence (rehab cost-estimate) via HUD form 52860–B	60	2	120	33.72	4046
25. Removal of public housing property from ACC through voluntary conversion (Section 22) via HUD form 52860–E	2	6.0	12	33.72	405
26. Removal of public housing property from ACC through required conversion (Section 33) via HUD form 52860–D	0	3.0	0	33.72	0
27. Removal of public housing property through homeownership (Section 32) via HUD Form 52860–C	4	6.0	24	33.72	809
28. Removal of public housing property from ACC through eminent domain HUD form 52860–F	6	2.0	12	33.72	404
29. Removal of public housing property from ACC through retention actions under 2 CFR 200.311 via HUD form 52860–G	20	2.0	40	33.72	1,349
30. Supplementary Document: Unique Legal Document used by HQ Staff Mixed-Finance Amendment to the ACC	60	24.0	1440	50	72,000
Totals	4,614	286.1	27,723	798.92	778,647

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 30, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–18856 Filed 9–5–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–50]

30-Day Notice of Proposed Information Collection: Requirements for Designating Housing Projects

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* October 6, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 19, 2017 at 82 FR 27859.

A. Overview of Information Collection

Title of Information Collection: Requirements for Designating Housing Projects.

OMB Approval Number: 2577–0192.

Type of Request: Revision of a previously approved collection.

Form Number: None.

Description of the Need for the Information and Proposed Use: The information collection burden associated with designated housing is required by statute. Section 10 of the Housing Opportunity and Extension Act of 1996 modified Section 7 of the U.S. Housing Act of 1937 to require Public Housing Agencies (PHAs) to submit a plan for designation for HUD approval before a project(s) can be designated as either elderly only, disabled only, or elderly and disabled. In this plan, PHAs must document why the designation is needed and provide the following information:

1. Description of the designated housing plan;
2. Justification for the designation;
3. Availability of alternative housing resources for the non-designated population(s);
4. Impact on the availability of accessible housing;
5. A statement that existing tenants in good standing will not be evicted;
6. A statement of the resources that will be made available if the PHA offers voluntary relocation benefits; and
7. Information describing how the DHP is consistent with any outstanding court orders, lawsuits, investigations, Voluntary Compliance Agreements (VCAs), or Letters of Finding.

Respondents (*i.e.* affected public): State, or Local Government.

Estimated Number of Respondents: 39.

Estimated Number of Responses: 1.

Frequency of Response: On occasion.

Average Hours per Response: 15 hours.

Total Estimated Burdens: 585 hours.

The previous estimation of 375 annual burden hours has been increased to 585. This change is based on the number of Plans submitted in Calendar Year 2016, and the expectation that the number of respondents will continue to increase based on the upward trend in senior demographics and the increased use of Low-Income Housing Tax Credits (LIHTC) to finance mixed developments that include senior units by Public Housing Agencies (PHAs).

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 30, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–18850 Filed 9–5–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–48]

30-Day Notice of Proposed Information Collection: Grant Drawdown Payment Request/LOCCS/VRS Voice Activated

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date: October 6, 2017.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management

Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Colette.Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on June 19, 2017 at 82 FR 27859.

A. Overview of Information Collection

Title of Information Collection: Grant Drawdown Payment Request/LOCCS/VRS Voice Activated.

OMB Approval Number: 2577–0166.

Type of Request: Revision of a currently approved collection.

Form Number: 50080–CFP; 50080–SC; 50080–PHTA; 50080–OFND; 50080–URP; 50080–FSS; 50080–IHBG; 50080–TIHD.

Description of the need for the information and proposed use: On April 17, 2017, the Grant Drawdown Payment Request/Voce Response System (VRS) was converted to a Business Partner Registration and Secure Systems for both the user and their Approving Official. The Secure Systems supports many of HUD applications, of which Line of Credit Control System (eLOCCS) is one of them. eLOCCS is implementing Single Sign-On solution under Secure Systems, where Grant recipients will be recognized and authenticated based on a Secure System ID and will no longer separately Sign-in to eLOCCS. Grant recipients use LOCCS system to request funds from HUD by signing into Secure Systems, as they normally do, and select Line of Credit Control System (eLOCCS) link. The Grantees (all new or reinstated user who need to access eLOCC*S*) will need to complete the LOCCS HUD–27054E form, have it notarized, send the original HUD–27054E LOCCS Access Authorization Form (with the original signature and notary seal) via U.S. Mail to the Program Office for review. The LOCCS system will automatically generate an Access Authorization email letting the user know that HUD–27054E has been processed, enabling grantees to access their eLOCCS account. The information collected on the payment voucher will also be used as an internal control measure to ensure the lawful and appropriate disbursement of Federal funds as well as provide a service to program recipients.

Below is a link where the HUD–27054E LOCCS Authorized Form can be accessed: *http://portal.hud.gov/hudportal/documents/huddoc?id=27054E.pdf.*

Respondents: PHAs, state or local government. Tribes and tribally designated housing entities.

Information collection	Number of respondents	Frequency of responses (drawdowns annually per program)	Responses per annum	Burden hour per response	Annual burden hours
Capital Fund 50080–CFP	3,100	15	46,500.00	2 .25	104,625.00
Operating Fund 50080–OFND	7,100	12	85,200.00	2 .25	191,700.00
Resident Opportunities and Supportive Services (ROSS) SC 50080–SC	330	12	3,960.00	.25	990.00
Public Housing Technical Assistance 50080–PHTA	12	12	144.00	.25	36.00
Hope VI 50080–URP	50	12	600.00	1	600.00
Family Self-Sufficiency 50080–FSS	700	12	8,400.00	.25	2,100.00
Indian Housing Block Grant 50080–IHBG	361	12	4,332.00	.25	1,083.00
Traditional Indian Housing Development 50080–TIHD	32	12	384.00	.25	96.00
	11,685	.....	.....	.....	301,230.00

* Frequency of Responses is the total number of AMPs (7,100) multiplied by the total annual drawdowns (12 months).

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: August 30, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–18853 Filed 9–5–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A51010.999900]

Proclaiming Certain Lands as Reservation for the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice informs the public that the Acting Assistant Secretary—Indian Affairs proclaimed approximately 2012.77 acres, more or less, an addition to the reservation of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians on July 21, 21017.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene M. Round Face, Bureau of Indian Affairs, Division of Real Estate Services, 1849 C Street NW., MS–4642–MIB, Washington, DC 20240, telephone (202) 208–3615.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 5110) for the lands described below. These lands are proclaimed to be part of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin Reservation, in Sawyer County, Wisconsin.

Fourth Principal Meridian

Sawyer County, Wisconsin

Legal Description Containing 2012.77 Acres, More or Less

T. 40 N., R. 6 W.,
- Sec. 8, that part of the SW¼SE¼ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—27.34 acres
- Sec. 10, NW¼SW¼.—40.00 acres
- Sec. 17, that part of the NW¼NE¼ and the SW¼NE¼ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—28.00 acres
- Sec.18, that part of the SW¼SE¼ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—20.00 acres
- Sec. 21, that part of the SW1/4 lying westerly of the west line of the Chippewa Reservoir Flowage, laying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—73.90 acres
- Sec. 28, that part of the NW¼, NW¼SE¼, and the SE¼ SE¼, lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—86.23 acres
- Sec 32, that part SE¼ and the S½NE¼ lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—123.55 acres

T. 40 N., R. 7 W.,
- Sec. 24, that part of the SW¼NW¼, the NW¼SW¼, and the NE¼SW¼, more particularly described as Lots One (1) and Two (2) as recorded in Volume Twenty (20) of Certified Survey Maps, pages 225–227, Survey No. 5858.—26.00 acres
- Sec. 26, that part of the NE¼ and the E½NW¼, lying southerly of the south line of the Chippewa Reservoir Flowage and lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—104.35 acres
- Sec. 27, that part of the S½NE¼, NE¼NE¼, SE¼NW¼, and the SW¼ lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment.—102.43 acres
- Sec. 28, that part of the NW¼NW¼, S½NW¼, N½SW¼, and the SW¼SW¼ lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment, AND that part of the N½SE¼SW¼, lying westerly of the west flowage line of the Chippewa Reservoir Flowage and lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment.—74.17 acres
- Sec.29, that part of the E½NE¼ lying easterly of the most easterly flowage line of the Chippewa Reservoir Flowage and lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment, AND that part of the S½S½ and the NE¼SE¼, lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—130.66 acres
- Sec. 30, that part of Lot 1, the SW¼SE¼, and the SE¼SE¼ lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment, AND that part of the NE¼SE¼ lying southerly of the most southern flowage line of the Chippewa Reservoir Flowage, lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—43.01 acres
- Sec. 31, that part of Lots 1, 2, 3 and 4 lying above elevation 1315 ft., Mean Sea Level Datum, 1929 adjustment.—150.25 acres
- Sec. 33, that part of the SW¼NE¼, the SW¼NW¼ and the SE¼ lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment—86.78 acres
- Sec. 34, that part of the E½NW¼ and the SW¼ lying above elevation 1315′, Mean Sea Level Datum, 1929 adjustment.—104.10 acres

T. 40 N., R. 8 W.,
- Sec. 16, NE¼NE¼, W½NE¼, NE¼SW¼, and E ½NW¼.—240.00 acres

T. 41 N., R. 8 W.,
- Sec. 33, NE¼, NW¼, SW¼, EXCEPT that deeded to Sawyer County for highway purposes as described in Vol. 382 of Records, Page 172.—472.00 acres
- Sec. 35, S½SW¼. 80.00 acres

Situated in Sawyer County, State of Wisconsin. Containing 2012.77 acres, more or less.

The above-described lands contain a total of 2012.77 acres, more or less, which are subject to all valid rights, reservations, rights-of-way, and easements of record.

This proclamation does not affect title to the lands described above, nor does it affect any valid existing easements for public roads and highways, public utilities and for railroads, and pipelines, and any other valid easements or rights-of-way or reservations of record.

Dated: July 21, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017–18854 Filed 9–5–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/A0A501010.999900]

HEARTH Act Approval of Stillaguamish Tribe of Indians' Leasing Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On July 17, 2017, the Bureau of Indian Affairs (BIA) approved the Stillaguamish Tribe of Indians' leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act. With this approval, the Tribe is authorized to enter into the following types of leases without BIA approval: Agricultural, residential, business, wind and solar, wind energy evaluation, and other authorized purposes.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208–3615.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act of 2012 (the Act) makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (the Secretary). The Act also authorizes Tribes to enter into leases for residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department's leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Stillaguamish Tribe of Indians.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72,440, 72,447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 5108, preempts State and local taxation of permanent improvements on trust land. *See Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 465 preempts State taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *See White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Just like BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* Guidance for the Approval of Tribal Leasing Regulations under the HEARTH Act, NPM–TRUS–29 (effective Jan. 16, 2013) (providing guidance on Federal review process to ensure consistency of proposed Tribal regulations with Part 162 regulations and listing required Tribal regulatory provisions). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Snohomish County and the State of Washington.

Dated: July 17, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017–18849 Filed 9–5–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[178A2100DD/AAKC001030/ A0R9A1010.999900]

HEARTH Act Approval of the Osage Nation Regulations

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: On July 17, 2017, the Bureau of Indian Affairs (BIA) approved the Osage Nation (Nation) leasing regulations under the Helping Expedite and Advance Responsible Tribal Homeownership Act of 2012 (HEARTH Act). With this approval, the Nation is authorized to enter into business site leases without further BIA approval.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, telephone: (202) 208–3615.

SUPPLEMENTARY INFORMATION:

I. Summary of the HEARTH Act

The HEARTH Act makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The HEARTH Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior (Secretary). The HEARTH Act also authorizes Tribes to enter into leases for

residential, recreational, religious or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The HEARTH Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department of the Interior's (Department) leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the HEARTH Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Osage Nation.

II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72,440, 72,447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 465, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation* v. *Thurston County,* 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe* v. *Jones,* 411 U.S. 145 (1973)). Similarly, section 465 preempts state taxation of rent payments by a lessee for leased trust lands, because ''tax on the payment of rent is indistinguishable from an impermissible tax on the land.'' *See Seminole Tribe of Florida* v. *Stranburg,* No. 14–14524, *13–*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe* v. *Bracker,* 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of ''traditional notions of Indian self-government,'' requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72,447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to ''allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.'' 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes ''flexibility to adapt lease terms to suit [their] business and cultural needs'' and to ''enable [Tribes] to approve leases quickly and efficiently.'' *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. *See Michigan* v. *Bay Mills Indian Community,* 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that ''[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding''). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. *See id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Similar to BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. *See* 25 U.S.C. 415(h)(3)(B)(i) (requiring Tribal regulations be consistent with BIA surface leasing regulations). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Osage Nation.

Dated: July 17, 2017.

Michael S. Black,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017–18852 Filed 9–5–17; 8:45 am]

BILLING CODE 4337–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–583 and 731–TA–1381 (Preliminary)]

Investigations: Cast Iron Soil Pipe Fittings From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of cast iron soil pipe fittings from China, provided for in subheading 7307.11.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

value (''LTFV'') and to be subsidized by the government of China.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On July 13, 2017, the Cast Iron Soil Pipe Institute, Mundelein, Illinois, filed a petition with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of cast iron soil pipe fittings from China. Accordingly, effective July 13, 2017, the Commission, pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)), instituted countervailing duty investigation No. 701–TA–583 and antidumping duty investigation No. 731–TA–1381 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 20, 2017 (82 FR 33515). The conference was held in Washington, DC, on August 3, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on August 28, 2017. The views of the Commission are contained in USITC Publication 4722 (September 2017), entitled *Cast Iron Soil Pipe Fittings from China: Investigation Nos. 701–TA–583 and 731–TA–1381 (Preliminary).*

By order of the Commission.

Issued: August 28, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–18508 Filed 9–5–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Synthetically Produced, Predominantly EPA Omega-3 Products in Ethyl Ester or Re-esterified Triglyceride Form, DN 3247;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Amarin Pharma, Inc. and Amarin Pharmaceuticals Ireland Ltd. on August 30, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain synthetically produced, predominantly EPA omega-3 products in ethyl ester or re-esterified triglyceride form. The complaint names as respondents Royal DSM NV of The Netherlands; DSM Marine Lipids Peru S.A.C. of Peru; DSM Nutritional Products of Parsippany, NJ; DSM Nutritional Products Canada, Inc. of Canada; Ultimate Biopharma (Zhongshan) Corporation of China; Marine Ingredients AS of Norway; Marine Ingredients LLC of Bethel, PA; Golden Omega S.A. of Chile; Golden Omega USA LLC of Aliso Viejo, CA; Nordic Pharma, Inc. of Norway; Croda Europe Ltd. of The United Kingdom; Croda Inc. of Edison, NJ; Tecnologica de Alimentos S.A. of Peru; Nature's Bounty of Ronkonkoma, NY; Nordic Naturals of Watsonville, CA; Pharmavite LLC of Northridge, CA; Innovix Pharma Inc. of Calabasas, CA and J.R. Carlson Laboratories, Inc. of Arlington Heights, IL. The complainant requests that the Commission issue a general exclusion order, a limited exclusion order, a cease and desist order, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the

United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3247'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures.) [1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: August 30, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–18773 Filed 9–5–17; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1068]

Certain Microfluidic Devices; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 31, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Bio-Rad Laboratories, Inc. of Hercules, California and Lawrence Livermore National Security, LLC of Livermore, California. A supplement to the complaint was filed on August 22, 2017. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain microfluidic devices by reason of infringement of one or more of U.S. Patent No. 9,500,664 (''the '664 patent''); U.S. Patent No. 9,089,844 (''the '844 patent''); U.S. Patent No. 9,636,682 (''the '682 patent''); U.S. Patent No. 9,649,635 (''the '635 patent''); and U.S. Patent No. 9,126,160 (''the '160 patent). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 30, 2017, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of

section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain microfluidic devices by reason of infringement of one or more of claims 1–12 and 14–16 of the '664 patent; claims 1–15 of the '844 patent; claims 1–21 of the '682 patent; claims 1–27 of the '635 patent; and claims 1, 2, 4–8, and 14–21 of the '160 patent; and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 201.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of facts and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (F)(1), (g)(1);

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Bio-Rad Laboratories, Inc., 1000 Alfred Nobel Drive, Hercules, CA 94547

Lawrence Livermore National Security, LLC, 2300 First Street, Suite 204, Livermore, CA 94550

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

10X Genomics, Inc., 7068 Koll Center Parkway, Suite 401, Pleasanton, CA 94566.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 30, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–18808 Filed 9–5–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0096]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection; Environmental Information—ATF Form 5000.29

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 6, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any additional information, please contact Shawn Stevens, ATF Industry Liaison, Federal Explosives Licensing Center, either by mail at 244 Needy Road, Martinsburg, WV 25405, or by telephone at 1–877–283–3352.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):* Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:* Environmental Information.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF F 5000.29.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other (if applicable): None.

Abstract: The data provided by the applicant on ATF F 5000.29, Environmental Information, allows ATF to identify any waste product(s) generated as a result of the operations by the applicant and the disposal of the products. The information is then reviewed in order to determine if there is any adverse impact on the environment. Information may be disclosed to other Federal, State and local law enforcement and regulatory personnel to verify information on the

form and to aid in the enforcement of environmental laws.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 680 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete the form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 340 hours, which is equal to 680 (the total number of respondents) * .5 (30 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–18841 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Siegfried USA, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on November 23, 2016, Siegfried USA, LLC, 33 Industrial Park Road, Pennsville, New Jersey 08070 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Opium, raw	9600	II
Poppy Straw Concentrate	9670	II

The company plans to import the listed controlled substances to manufacture bulk active pharmaceuticals ingredients (API) for distribution to its customers.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18802 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Akorn, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections on or before November 6, 2017. Such persons may also file a written request for a hearing on the application on or before October 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on May 26, 2017, Akorn, Inc., 1222 W. Grand Avenue, Decatur, Illinois 62522 applied to be registered as an importer of remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import remifentanil in dosage form for distribution.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18803 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Marcus W. Anderson, M.D.; Decision and Order

On May 12, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order

to Show Cause to Marcus W. Anderson, M.D. (Registrant), of Saint Augustine, Florida. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration on the ground that he lacks ''authority to handle controlled substances in the State of Florida, the State in which he is registered with the DEA.'' Order to Show Cause, Government Exhibit (GX) 1, at 1 (citing 21 U.S.C. 823(f), 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered as a practitioner in schedules II through V, pursuant to DEA Certificate of Registration FA3645213, at the address of 300 Health Park Boulevard, Suite 1004, Saint Augustine, Florida. *Id.* The Order also alleged that this registration does not expire until June 30, 2018. *Id.*

As substantive grounds for the proceeding, the Show Cause Order alleged that Registrant's ''authority to prescribe and administer controlled substances in the State of Florida was suspended effective November 28, 2016.'' *Id.* As a result of the alleged suspension, the Order alleged that Registrant lacks ''authority to handle controlled substances in the State of Florida.'' *Id.* Thus, based on his lack of authority to dispense controlled substances in Florida, the Order asserted that ''the DEA must revoke'' his registration. *Id.* (citing 21 U.S.C. 802(21), 823(f)(1), 824(a)(3)).

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The Show Cause Order also notified Registrant of his right to submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

The Government states that on May 22, 2017, ''DEA personally served a copy of the Order to Show Cause on [Registrant] at 206 27th Avenue South, Myrtle Beach, South Carolina.'' Government Request for Final Agency Action (RFFA), at 2 (citing GX 4). Specifically, a DEA Diversion Investigator (DI) from the DEA's Jacksonville, Florida, District Office states in a sworn affidavit that he mailed the Show Cause Order to Registrant'' via United States Postal Service (''USPS'') Certified Mail'' and ''addressed the envelope to his last known address [1] at 206 27th Avenue South, Myrtle Beach, South Carolina.'' GX 4 at 2.[2] ''On or about May 30, 2017,'' the DI ''accessed the USPS Web site,'' ''entered the tracking number of the certified mail'' that he had sent to the Myrtle Beach address, and stated that ''[t]he Web site indicated that the package had been delivered on May 22, 201[7].'' *Id.*[3]

On June 28, 2017, the Government forwarded its Request for Final Agency Action and an evidentiary record to my Office. Therein, the Government represents that it has received neither a hearing request nor ''any other reply from'' Registrant regarding the Show Cause Order. RFFA, at 2. Based on the Government's representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Registrant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(d). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

Findings of Fact

Registrant is a physician who is registered as a practitioner in schedules II–V pursuant to Certificate of Registration FA3645213, at the address of 300 Health Park Boulevard, Suite 1004, Saint Augustine, Florida. GX 2. The registration does not expire until June 30, 2018. *Id.*

On November 22, 2016, the Board of Medicine for the State of Florida issued a ''Final Order'' stating that Registrant's ''license to practice medicine in the State of Florida is hereby SUSPENDED until such time as he demonstrates the ability to practice medicine with reasonable skill and safety.'' GX 3, at 4–5. The Order also stated that it would take effect upon being filed with the Clerk of the Florida Department of Health, which occurred on November 28, 2016. GX 3, at 3, 5. In light of the passage of time since the effective date of the Order, I have queried the Florida Department of Health Web site regarding the status of Registrant's license, and I take official notice that Registrant's Florida medical license remains suspended as of the date of this decision.[4] Based on the above, I find that Registrant does not currently have authority under the laws of Florida to dispense controlled substances.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other

[1] Although neither the DI's affidavit nor the Request for Final Agency Action set forth the basis for the statement that this is the Registrant's ''last known address,'' the record does show that the Florida Board of Medicine and Florida's Assistant General Counsel for the Florida Department of Health both served Registrant at the 206 27th Avenue South, Myrtle Beach, South Carolina address. *E.g.,* GX 3, at 6, 10. In addition, Florida's administrative complaint also states that ''Respondent's last known address is 206 27th Avenue South, Myrtle Beach, South Carolina.'' *Id.* at 18.

[2] The DI states in his Affidavit that he mailed the Show Cause Order on ''May 19, 2016.'' GX 4, at 2. Given that the Show Cause Order was not issued until May 12, 2017, I find that this was a typographic error, and that the DI intended to state that he mailed the Show Cause Order on May 19, 2017.

[3] The DI stated in his affidavit that ''I accessed the USPS Web site at *www.ups.com.*'' GX 4, at 2. Although ''UPS'' is a known acronym for another delivery service, United Parcel Service, I find that this too was a typographic error, and that the DI had intended to state that he accessed the USPS Web site at *www.usps.com.* For these reasons, I also find that such service was done by mail and not by personal service. In addition, as the DI states that he had checked the USPS Web site on ''May 30, 2017,'' I find that his statement in the affidavit that the Web site indicated that the package had been delivered on ''May 22, 2016,'' *id.,* was a typographical error and that the DI intended to state that the Web site indicated delivery on May 22, 2017.

[4] In accordance with the Administrative Procedure Act (APA), an agency ''may take official notice of facts at any stage in a proceeding-even in the final decision.'' U.S. Dept. of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Registrant is ''entitled on timely request to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); see also 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of the date of service of this Order which shall commence on the date this Order is mailed.

person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR 27616 (1978).

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Florida State Board of Medical Examiners has employed summary process in suspending Registrant's state medical license. What is consequential is that Registrant is no longer currently authorized to dispense controlled substances in Florida, the State in which he is registered. I will therefore order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. FA3645213, issued to Marcus W. Anderson, M.D., be, and it hereby is, revoked. I further order that any pending application of Marcus W. Anderson to renew or modify the above registration, or any pending application of Marcus W. Anderson for any other registration, be, and it hereby is, denied. This Order is effective immediately.[5]

Dated: August 28, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–18784 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

[5] For the same reasons that led the Florida Board of Medicine to summarily suspend Registrant's medical license, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Stepan Company

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.33(a) on or before November 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on January 20, 2017, Stepan Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Cocaine	9041	II
Ecgonine	9180	II

The company plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18789 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: KVK–Tech, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or

revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on July 18, 2016, KVK–Tech, Inc., 110 Terry Drive, Newtown, Pennsylvania 18940 applied to be registered as an importer of Lisdexamfetamine (1205), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance in finished dosage form for clinical trials, research, and analytical purposes. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18787 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Spex Certiprep Group, LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix of subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 31, 2016, Spex Certiprep Group, LLC, 203 Norcross Avenue, Metuchen, New Jersey 08840 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis.

In reference to drug codes 7360 (marihuana) and 7370 (THC), the company plans to import a synthetic cannabidiol and a synthetic tetrahydrocannabinol. No other activity for these drug codes is authorized for this registration.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18788 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on December 9, 2016, Mylan Pharmaceuticals, Inc., 781 Chestnut Ridge Road, Morgantown, West Virginia 26505 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Methylphenidate	1724	II
Oxycodone	9143	II
Hydromorphone	9150	II
Methadone	9250	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials

in which the foreign FDF will be compared to the company's own domestically-manufactured FDF. This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets. Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18801 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Fisher Clinical Services, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before October 6, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before October 6, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on May 5, 2017, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II
Levorphanol	9220	II
Noroxymorphone	9668	II
Tapentadol	9780	II

The company plans to import the listed controlled substances for analytical research, testing, and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial distribution in the United States.

The company plans to import an intermediate form of tapentadol (9780) to bulk manufacture tapentadol for distribution to its customers. Placement of these (this) drug code(s) onto the company's registration does not translate into automatic approval of subsequent permit applications to import controlled substances. Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: August 28, 2017.

Demetra Ashley,

Acting Assistant Administrator.

[FR Doc. 2017–18785 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 8–17]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

DATES: THURSDAY, SEPTEMBER 14, 2017: 10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2017–18962 Filed 9–1–17; 11:15 am]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0011]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to Support Tribal Domestic Violence and Sexual Assault Coalitions Program (Tribal Coalitions Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0011. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the 14 grantees from the Tribal Coalitions Program. The Tribal Coalitions Program grantees include Indian tribal governments that will support the development and operation of new or existing nonprofit tribal domestic violence and sexual assault coalitions in Indian country. These grants provide funds to develop and operate nonprofit tribal domestic violence and sexual assault coalitions in Indian country to address the unique issues that confront Indian victims. The Tribal Coalitions Program provides resources for organizing and supporting efforts to end violence against Indian women.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the 14 respondents (grantees from the Tribal Coalitions Program) approximately one hour to complete a Semi-Annual Progress Report. The Semi-Annual Progress Report is divided into sections that pertain to the different types of activities that grantees may engage in with grant funds. Grantees must complete only those sections that are relevant to their activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 28 hours, that is 14 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E, 405B, Washington, DC 20530.

Dated: August 31, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–18833 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0005]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day Notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov*.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grants to Reduce Violent Crimes Against Women on Campus Program (Campus Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0005. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 100 grantees (institutions of higher education) of the Campus Program whose eligibility is determined by statute. Campus Program grants may be used to enhance victim services and develop programs to prevent violent crimes against women on campuses. The Campus Program also enables institutions of higher education to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, including domestic violence, dating violence, sexual assault, and stalking.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 100 respondents (Campus Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Campus Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 200 hours, that is 100 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E, 405B, Washington, DC 20530.

Dated: August 31, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–18835 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0009]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day Notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Safe Havens: Supervised Visitation and Exchange Grant Program (Supervised Visitation Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0009. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 33 grantees of the Supervised Visitation Program who are States, Indian tribal governments, and units of local government. The Supervised Visitation Program provides an opportunity for communities to support the supervised visitation and safe exchange of children, by and between parents, in situations involving domestic violence, child abuse, sexual assault, or stalking.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 33 respondents (Supervised Visitation Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Supervised Visitation Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 66 hours, that is 33 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E, 405B, Washington, DC 20530.

Dated: August 31, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–18837 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0010]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Grants to State Sexual Assault and Domestic Violence Coalitions Program (State Coalitions Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0010. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the 88 grantees from the State Coalitions Program. The State Coalitions Program provides federal financial assistance to state coalitions to support the coordination of state victim services activities, and collaboration and coordination with federal, state, and local entities engaged in violence against women activities.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 88 respondents (State Coalitions Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A State Coalitions Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 176 hours, that is 88 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E, 405B, Washington, DC 20530.

Dated: August 31, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–18834 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–0018]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Office on Violence Against Women, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 6, 2017.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202–514–5430 or *Catherine.poston@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for the Grants to Indian Tribal Governments Program (Tribal Governments Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–0018. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 85 grantees of the Grants to Indian Tribal Governments Program (Tribal Governments Program), a grant program authorized by the Violence Against Women Act of 2005. This discretionary grant program is designed to enhance the ability of tribes to respond to violent crimes against Indian women, enhance victim safety, and develop education and prevention strategies. Eligible applicants are recognized Indian tribal governments or their authorized designees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 85 respondents (Tribal Governments Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Tribal Governments Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 170 hours, that is 85 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and

Planning Staff, Two Constitution Square, 145 N Street NE., 3E, 405B, Washington, DC 20530.

Dated: August 31, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–18836 Filed 9–5–17; 8:45 am]

BILLING CODE 4410–FX–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 6, 2017. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 670 as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2018–005

1. *Applicant:* Shaun O'Boyle, 30 South Carson Ave., Dalton, MA 01226.

Activity for Which Permit Is Requested

Enter Antarctic Specially Protected Area. The applicant, an artist supported by NSF's Antarctic Artists and Writers Program, would enter ASPA 149, Cape Shirreff, to photograph the manmade structures and their relationship to surrounding landscapes. If approved, the applicant would be accompanied in by experienced staff and researchers who are familiar with the environmental sensitivities of the Area and would ensure that the applicant acts in accordance with the management plan for the Area. The results of this work are expected to be useful for outreach and education about Antarctica and the scientific research conducted there.

Location

ASPA 149, Cape Shirreff, Livingston Island, South Shetland Islands.

Dates

October 20–November 5, 2017.

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–18781 Filed 9–5–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of September 4, 11, 18, 25, October 2, 9, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

Week of September 4, 2017

Wednesday, September 6, 2017

1:30 p.m. NRC All Employees Meeting (Public Meeting), Marriott Bethesda North Hotel, 5701 Marinelli Road, Rockville, MD 20852

Thursday, September 7, 2017

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

Week of September 11, 2017—Tentative

There are no meetings scheduled for the week of September 11, 2017.

Week of September 18, 2017—Tentative

There are no meetings scheduled for the week of September 18, 2017.

Week of September 25, 2017—Tentative

There are no meetings scheduled for the week of September 25, 2017.

Week of October 2, 2017—Tentative

Thursday, October 5, 2017

9:00 a.m. Hearing on Combined Licenses for Turkey Point, Units 6 and 7: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Manny Comar: 301–415–3863)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of October 9, 2017—Tentative

There are no meetings scheduled for the week of October 9, 2017.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: August 31, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–18911 Filed 9–1–17; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–458; NRC–2017–0141]

Entergy Operations, Inc.; River Bend Station, Unit 1; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; opportunity to request a hearing and to petition for leave to intervene; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on August 14, 2017, regarding the NRC's consideration of an application for the renewal of operating license NPF–47, which authorizes Entergy Operations, Inc., (the applicant), to operate River Bend Station, Unit 1 (RBS). The renewed license would authorize the applicant to operate RBS for an additional 20 years beyond the period specified in the current license. The current operating license for RBS expires at midnight on August 29, 2025. This action is necessary to correct the location where local residents can view a paper copy of the license renewal application.

DATES: The correction is effective September 6, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0141 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0141. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The License Renewal Application is available in ADAMS under Accession No. ML17153A282.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Emmanuel Sayoc, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–4084; email: *Emmanuel.Sayoc@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the FR on August 14, 2017, in FR Doc. 2017–17125 on page 37910, in the third column, second full paragraph, lines four through six, replace ''St. Charles Parish Library—East Regional Library, 160 W. Campus Drive, Destrehan, Louisiana 70047'' with ''West Feliciana Parish Library, 5114 Burnett Road, St. Francisville, Louisiana 70775.''

Dated at Rockville, Maryland, this 30th day of August, 2017.

For the Nuclear Regulatory Commission.

Sheldon Stuchell,

Chief, Projects Management and Guidance Branch, Division of License Renewal, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–18786 Filed 9–5–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0043]

Clarification of Compensatory Measure Requirements for Physical Protection Program Deficiencies

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory issue summary; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Regulatory Issue Summary (RIS) 2017–04, ''Clarification on the Implementation of Compensatory Measures for Protective Strategy Deficiencies or Degraded or Inoperable Security Systems, Equipment, or Components.'' This RIS reminds addressees that they are required to implement compensatory measures supported by an assessment to ensure their physical protection program maintains, at all times, the capability to detect, assess, interdict, and neutralize threats as identified in NRC regulations. Compensatory measures must be implemented for degraded or inoperable security systems, equipment, or components, and for protective strategy deficiencies identified during performance evaluation exercises and drills.

DATES: The RIS is available as of September 6, 2017.

ADDRESSES: Please refer to Docket ID NRC–2016–0043 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0043. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. This RIS is available under ADAMS Accession No. ML16110A366.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- This RIS is also available on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/gen-comm/reg-issues/* (select ''2017'' and then select ''RIS 2017–04'').

FOR FURTHER INFORMATION CONTACT: Carl Grigsby, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–3681; email: *Carl.Grigsby@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC published a notice of opportunity for public comment on this RIS in the **Federal Register** on March 1, 2016 (81 FR 10686). The agency received two sets of comments. The staff considered all comments, which resulted in minor changes to the RIS. The evaluation of these comments is discussed in a publicly-available memorandum which

is in ADAMS under Accession No. ML16110A370.

Dated at Rockville, Maryland, this 30th day of August 2017.

For the Nuclear Regulatory Commission.

Alexander D. Garmoe,

Chief (Acting), Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–18755 Filed 9–5–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Tuesday, September 12, 2017, at 8:00 a.m.

PLACE: Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Tuesday, September 12, 2017, at 8:00 a.m.

1. Financial Matters.
2. Strategic Issues.
3. Personnel and Compensation Items.
4. Executive Session—Discussion of prior agenda items and Temporary Emergency Committee governance.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000. Telephone: (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2017–19021 Filed 9–1–17; 4:15 pm]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* September 6, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 30, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 346 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–181, CP2017–282.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–18771 Filed 9–5–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* September 6, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 30, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 345 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–180, CP2017–281.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–18770 Filed 9–5–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* September 6, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 30, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 347 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–182, CP2017–283.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–18772 Filed 9–5–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81498; File No. SR–BatsBYX–2017–19]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Harmonize the Corporate Governance Framework With That of Chicago Board Options Exchange, Incorporated and C2 Options Exchange Incorporated

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 23, 2017, Bats BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On August 25, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend and restate its certificate of incorporation and bylaws, as well as amend its Rules.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BYX submits this rule filing to the Securities and Exchange Commission (the ''Commission'') in connection with a corporate transaction (the ''Transaction'') involving, among other things, the recent acquisition of BYX, along with Bats BZX Exchange, Inc. (''Bats BZX''), Bats EDGX Exchange, Inc. (''Bats EDGX''), and Bats EDGA Exchange, Inc. (''Bats EDGA'' and, together with Bats BYX, Bats EDGX, and Bats BZX, the ''Bats Exchanges'') by CBOE Holdings, Inc. (''CBOE Holdings''). CBOE Holdings is also the parent of Chicago Board Options Exchange, Incorporated (''CBOE'') and C2 Options Exchange, Incorporated (''C2''). This filing proposes to amend and restate the bylaws (and amend the rules, accordingly) and the certificate of incorporation of the Exchange based on the bylaws and certificates of incorporation of CBOE and C2.

Specifically, the Exchange proposes to replace the certificate of incorporation of Bats BYX Exchange, Inc., (the ''current Certificate'') in its entirety with the Amended and Restated Certificate of Incorporation of Bats BYX Exchange, Inc. (the ''proposed Certificate''). Additionally, the Exchange proposes to replace the Fifth Amended and Restated Bylaws of Bats BYX Exchange, Inc. (the ''current Bylaws'') in its entirety with the Sixth Amended and Restated Bylaws of Bats BYX Exchange, Inc. (the ''proposed Bylaws''). The Exchange believes that it is important for each of CBOE Holdings' six U.S. securities exchanges to have a consistent, uniform approach to corporate governance. Therefore, to simplify and unify the governance and corporate practices of these six exchanges, the Exchange proposes to revise the current Certificate and current Bylaws to conform them to the certificates of incorporation and bylaws of the CBOE and C2 exchanges (*i.e.,* the Third Amended and Restated Certificate of Incorporation of Chicago Board Options Exchange, Incorporated and the Fourth Amended and Restated Certificate of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Certificate'') and the Eighth Amended and Restated Bylaws of Chicago Board Options Exchange, Incorporated and the Eighth Amended and Restated Bylaws of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Bylaws'')). The proposed Certificate and proposed Bylaws reflect the expectation that the Exchange will be operated with governance structures similar to those of CBOE and C2. Accordingly, the Exchange proposes to adopt corporate documents that set forth a substantially similar corporate governance framework and related processes as those contained in the CBOE Certificate and CBOE Bylaws. The Exchange believes the proposed changes to the current Certificate and current Bylaws are consistent with the requirements of the Securities Exchange Act of 1934, as amended (the ''Act'').

(a) Changes to the Certificate

In connection with the Transaction, the Exchange proposes to amend and restate the current Certificate to conform to the certificates of incorporation of CBOE and C2. The proposed Certificate is set forth in Exhibit 5B. Specifically, the Exchange proposes to make the following substantive amendments to the current Certificate.

- Adopt an introductory section.
- Amend Article Third to provide further details as to the nature of the business of the Exchange. Specifically, the proposed Certificate will further specify that the nature of the Exchange is (i) to conduct and carry on the function of an ''exchange'' within the meaning of that term in the Act and (ii) to provide a securities market place with high standards of honor and integrity among its Exchange Members and other persons holding rights to access the Exchange's facilities and to promote and maintain just and equitable principles of trade and business.
- Article Fourth of the proposed Certificate specifies that Bats Global Markets Holdings, Inc. will be the sole owner of the Common Stock and that any sale, transfer or assignment by Bats Global Markets Holdings, Inc. of any shares of Common Stock will be subject to prior approval by the SEC pursuant to a rule filing. The Exchange notes that Article IV, Section 7 of the current Bylaws similarly precludes the stockholder from transferring or assigning, in whole or in part, its ownership interest(s) in the Exchange.
- Article Fifth of the current Certificate regarding the name and address of the sole incorporator is being deleted as it is now outdated.
- Article Fifth of the proposed Certificate is the same as Article Fifth of the CBOE Certificate. Specifically, Article Fifth, subparagraph (a) provides that the governing body of the Exchange shall be its Board. Article Fifth, subparagraph (b) provides that the Board shall consist of not less than five (5) Directors and subparagraph (c) includes language regarding the nomination of directors, which information is substantially similar as is provided in the CBOE Bylaws and the proposed Bylaws.[3] Article Fifth, subparagraph (d) of the proposed Certificate provides that in discharging his or her responsibilities as a member of the Board, each Director shall take into consideration the effect that his or her actions would have on the ability of the Exchange to carry out the Exchange's responsibilities under the Act and on the ability of the Exchange: To engage in conduct that fosters and does not interfere with the Exchange's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest. In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Exchange, each such Director, officer or employee shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission, and the Exchange pursuant to its regulatory authority. The Exchange notes that similar language is included in the current Bylaws.[4]
- Article Sixth of the proposed Certificate governs the indemnification of Directors of the Board. The Exchange notes that its indemnification provision is currently contained in Article VIII of

[3] *See* Article III of the CBOE Bylaws and proposed Bylaws.

[4] *See* Article III, Section 1(d) and Section 1(e) of the current Bylaws.

the current Bylaws. In order to conform governance documents across all CBOE Holdings' exchanges and conform indemnification practices, the Exchange is eliminating its indemnification in the bylaws and adopting the same indemnification language that is currently contained in Article Sixth of the CBOE Certificate.

• Article Seventh of the proposed Certificate is the same as Article Seventh of the CBOE Certificate and provides that the Exchange reserves the right to amend, change or repeal any provision of the certificate. It also provides that before any amendment or repeal of any provision of the certificate shall be effective, the changes must be submitted to the Board, and if such amendment or repeal must be filed with or filed with and approved by the Commission, it won't be effective until filed with or filed with and approved by the Commission.

• Article Eighth of the proposed Certificate is the same as Article Eighth of the CBOE Certificate. Proposed Article Eighth provides that a Director of the Exchange shall not be liable to the Exchange or its stockholders for monetary damages for breach of fiduciary duty as a Director, except to the extent such exemption from liability or limitation is not permitted under Delaware Corporate law.

• Article Ninth of the proposed Certificate is the same as Article Ninth of the CBOE Certificate. Specifically it provides that unless and except to the extent that the Exchange's bylaws require, election of Directors of the Exchange need not be by written ballot.

• Article Tenth of the proposed Certificate is the same as Article Tenth of the CBOE Certificate and provides that in furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board is expressly authorized to make, alter and repeal the Exchange's bylaws, which is already provided for in both the current Bylaws and proposed Bylaws.[5]

• Article Eleventh of the proposed Certificate is the same as Article Eleventh of the CBOE Certificate and is similar to Article XI, Section 3 of the current Bylaws. Particularly, Article Eleventh provides that confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (i) Not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (iii) not be used for any commercial purposes. Additionally, Article Eleventh of the proposed Certificate further provides that nothing in Article Eleventh shall be interpreted as to limit or impede the rights of the Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of the Exchange to disclose such confidential information to the Commission.

(b) Substantive Changes to the Bylaws

In connection with the Transaction, the Exchange also proposes to amend and restate the current Bylaws to conform to the Bylaws of CBOE and C2. The proposed Bylaws is set forth in Exhibit 5D. Specifically, the Exchange proposes to make the following substantive amendments to the current Bylaws:

Definitions

The Exchange first notes that Section 1.1 of the proposed Bylaws, titled ''Definitions,'' contains key definitions of terms used in the proposed Bylaws, and are based on the defined terms used in Section 1.1 of the CBOE Bylaws. The Exchange notes that certain differences in terminology in the proposed Bylaws and CBOE Bylaws will exist (*e.g.,* use of the term ''Exchange Member'' instead of ''Trading Permit Holder''). The Exchange proposes to eliminate from the current Bylaws certain definitions that would be obsolete under the proposed Bylaws (*e.g.,* references to ''Member Representative Directors'' and ''Member Nominating Committee'') and also proposes to move certain defined terms located in the current Bylaws to the BYX Rules (*i.e.,* ''Industry member'' and ''Member Representative member'').[6] Additionally, the Exchange proposes to define certain terms in the current Bylaws in places other than Section 1.1, so as to match the CBOE Bylaws (*e.g.,* the definition of ''Industry Director'' is being relocated to Article III, Section 3.1 of the proposed Bylaws and the definition of ''Record Date'' is being relocated to Article II, Section 2.7 of the proposed Bylaws).[7]

Office and Agent

The Exchange notes that the information in Article II (Office and Agent) of the current Bylaws is not included in the proposed Bylaws. The Exchange notes that the language contained in Section 2 and 3 of Article II is already located in the current Certificate and will continue to be located in the proposed Certificate.[8] The Exchange does not believe the information contained in Section 1 of Article II is necessary to include in the proposed Bylaws and notes that the CBOE Bylaws do not contain information relating to the principal business office.

Nomination and Election Process

Article III of the proposed Bylaws, titled ''Board of Directors'', mirrors the language in Article III of the CBOE Bylaws and contains key provisions regarding the processes for nominating and electing Representative Directors.

General Nomination and Election

Under the Exchange's current director nomination and election process, the Nominating Committee (which is not a Board committee, but rather is composed of Exchange member representatives)[9] nominates Directors for each Director position standing for election for that year. Additionally, for Member Representative Director positions,[10] the Nominating Committee

[5] *See* Article IX, Section 1 of the current Bylaws and Article IX, Section 9.1 of the proposed Bylaws.

[6] *See* Proposed BYX Rules, Rule 8.6. The Exchange notes that the definition of a Member Representative member is being revised to eliminate the reference to a Stockholder Exchange Member. Currently, a Stockholder Exchange Member means an Exchange Member that also maintains, directly or indirectly, an ownership interest in the Company. The exchange notes that the sole stockholder of BYX is Bats Global Markets Holdings, Inc., which is a wholly owned subsidiary of CBOE Holdings and is not an Exchange member, and as such, the concept of a Stockholder Exchange Member need not be referenced.

[7] The Exchange notes a few differences between the definitions of Industry Director and Record Date in the current Bylaws and the proposed Bylaws. Specifically, the definition of ''Industry Director'' in Article I, subparagraph (o) of the current Bylaws contains references to specific percentages in order to determine whether a Director qualifies as an Industry Director, whereas the definition of ''Industry Director'' in Article III, Section 3.1, of the proposed Bylaws uses the term ''material portion'' in making those same determinations. The definition of ''Record Date'' in Article I, subparagraph (z) of the current Bylaws means a date at least thirty-five (35) days before the date of the annual meeting of stockholders, whereas Article II, Section 2.7 of the proposed Bylaws provides that the Record Date shall be at least 10 days before the date of the annual meeting of stockholders and not more than 60 days before the annual meeting.

[8] *See* Article Second of the current and proposed Certificates.

[9] *See* Current Bylaws, Article III, Section 4 (''Nomination and Election'') and Article VI, Section 2 (''Nominating Committee'').

[10] *See* Current Bylaws, Article I, (s), which defines a ''Member Representative Director''. A Member Representative Director must be an officer,

Continued

must nominate the Directors that have been approved and submitted by the Member Nominating Committee (which is also not a Board committee, but rather is composed of Member Representative members).[11] Additionally, pursuant to Article III, Section 3(b) of the current Bylaws, the Exchange Directors are divided into three classes, designated as Class I, Class II and Class III. Directors other than the Chief Executive Officer of the Exchange (''CEO'') serve staggered three-year terms. The Exchange proposes to adopt a nomination and election process identical to CBOE and C2 as set forth in Article III of the proposed Bylaws. As such, the tiered class system will be eliminated, Directors will serve one-year terms ending on the annual meeting following the meeting at which Directors were elected or at such time as their successors are elected or appointed and the newly established Nominating and Governance Committee will be responsible for nominating each Director.[12]

Nomination and Election of Representative Directors

Currently, pursuant to Article III, Section 4(b) of the current Bylaws, for Member Representative Directors, the Member Nominating Committee consults with the Nominating Committee, the Chairman of the Board and the CEO, and also solicits comments from Exchange Members for purposes of approving and submitting the names of candidates for election as a Member Representative Director. The initial nominees for Member Representative Directors must be reported to the Nominating Committee and Secretary no later than sixty (60) days prior to the annual or special stockholders' meeting, at which point the Secretary will promptly notify Exchange Members. Exchange Members may then identify other candidates by delivering to the Secretary, at least thirty-five (35) days before the annual or special stockholders' meeting, a written petition, identifying the alternative candidate and signed by Executive Representatives [13] of 10% or more of Exchange Members. No Exchange Member, together with its affiliates, may account for more than fifty percent (50%) of the signatures endorsing a particular candidate. If no valid petitions from Exchange Members are received by the Record Date, the initial nominees approved and submitted by the Member Nominating Committee shall be nominated as Member Representative Directors by the Nominating Committee. If one or more valid petitions are received by the Record Date, the Secretary shall include such additional nominees, along with the initial nominees nominated by the Member Nominating Committee, on a list of nominees (the ''List of Candidates'') that is sent to all Exchange Members, accompanied by a notice regarding the time and date of an election to be held at least twenty (20) days prior to the annual or special stockholders' meeting. Each Exchange Member has the right to cast one (1) vote for each available Member Representative Director nomination (the vote must be cast for a person on the List of Candidates and no Exchange Member, together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate). The persons on the List of Candidates who receive the most votes shall be selected as the nominees for the Member Representative Director positions.

For purposes of harmonizing the governance structure and process across all of CBOE Holdings' U.S. securities exchanges, the Exchange proposes to eliminate the Nominating Committee and Member Nominating Committee and adopt a nomination and election process substantially similar to CBOE and C2 for Member Representative Directors (to be renamed ''Representative Directors'').[14] The Exchange notes that unlike the current Bylaws, the proposed Bylaws will not require Representative Directors to be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member, as neither CBOE nor C2 maintain such a requirement. The new process will provide that the ''Representative Director Nominating Body'' shall be responsible for nominating Representative Directors. The Representative Director Nominating Body (''Nominating Body'') is either (i) the Industry-Director Subcommittee of the Nominating and Governance Committee if there are at least two (2) Industry Directors on the Nominating and Governance Committee, or (ii) if the Nominating and Governance Committee has less than two (2) Industry Directors, then the Nominating Body shall mean the Exchange Member Subcommittee of the Advisory Board.[15] The Nominating and Governance Committee shall be bound to accept and nominate the Representative Director nominees recommended by the Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Any person nominated by the Nominating Body and any petition candidate must satisfy the compositional requirements determined by the Board, pursuant to a resolution adopted by the Board, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). Not earlier than December 1 and not later than January 15th (or the first business day thereafter if January 15th is not a business day), the Nominating Body shall issue a circular to Exchange Members identifying the Representative Director nominees. As is the case under the current Bylaws, Exchange Members may nominate alternative candidates for election to the Representative Director positions to be elected in a given year by submitting a petition signed by individuals representing not less than ten percent (10%) of the Exchange Members at that time. Petitions must be filed with the Secretary no later than 5:00 p.m. (Chicago time) on the 10th business day following the issuance of the circular to the Exchange Members identifying the Representative Director nominees (the ''Petition Deadline''). The names of all Representative Director nominees recommended by the Nominating Body and those selected pursuant to a valid and timely petition shall, immediately following their selection, be given to the Secretary who shall promptly issue a circular to all of the Exchange Members identifying all

director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member.

[11] *See* Current Bylaws Article I, subparagraph (t) (''Member Representative member''). *See also,* Article III, Section 4 (''Nomination and Election'') and Article VI, Section 3 (''Member Nominating Committee'') of the current Bylaws.

[12] *See* Article III, Section 3.1 and Article IV, Section 4.3 of the proposed Bylaws.

[13] The term ''Executive Representative'' as defined in the current Bylaws, Article I, means the person identified to the Company by an Exchange Member as the individual authorized to represent, vote, and act on behalf of the Exchange Member. An Executive Representative of an Exchange Member or a substitute shall be a member of senior management of the Exchange Member.

[14] Article III, Section 3.1. of the proposed Bylaws requires that at all times, at least 20% of Directors serving on the Board shall be Representative Directors, which is the same percentage required under the current Bylaws (*see* Article III, Section 2(b)(ii) of the current Bylaws). Article III, Section 3.2 of the proposed Bylaws further clarifies that if 20% of the Directors then serving on the Board is not a whole number, the number of required Representative Directors shall be rounded up to the next whole number.

[15] The Exchange notes that if there are less than two (2) Industry Directors on the Nominating and Governance Committee, it would institute an Advisory Board, if not already established.

such Representative Director candidates.

If one or more valid petitions are received, the Secretary shall issue a circular to all of the Exchange Members identifying those individuals nominated for Representative Director by the Nominating Body and those individuals nominated for Representative Director through the petition process, as well as of the time and date of a run-off election to determine which individuals will be nominated as Representative Director(s) by the Nominating and Governance Committee (the ''Run-off Election''). The Run-off Election will be held not more than forty-five (45) days after the Petition Deadline. In any Run-off Election, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year; provided, however, that no Exchange Member, either alone or together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate.[16] The Secretary shall issue a circular to all of the Exchange Members setting forth the results of the Run-off Election. The number of individual Representative Director nominees equal to the number of Representative Director positions to be filled that year receiving the largest number of votes in the Run-off Election will be the persons approved by the Exchange Members to be nominated as the Representative Director(s) by the Nominating and Governance Committee for that year. The Exchange believes that, under the proposed Board structure, the Representative Directors serve the same function as the Member Representative Directors in that both directorships give Exchange members a voice in the Exchange's use of self-regulatory authority.

Vacancies

Article III, Section 6 of the current Bylaws provides that during a vacancy of any Director other than a Member Representative Director, the Nominating Committee shall nominate an individual Director and the stockholders of BYX shall elect the new Director.[17] In the event of a vacancy of a Member Representative Director, the Member Nominating Committee shall either (i) recommend an individual to the stockholders to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the stockholders from which the stockholders shall elect the individual to fill such vacancy. The current Bylaws provide that Directors elected to fill a vacancy are to hold office until the expiration of the remaining term.

The Exchange proposes to adopt the same process to fill vacancies as CBOE and C2. Specifically, Article III, Section 3.5 of the proposed Bylaws, which is substantially similar to Article III, Section 3.5 of the CBOE Bylaws, will provide that a vacancy on the Board may be filled by a vote of majority of the Directors then in office, or by the sole remaining Director, so long as the elected Director qualifies for the position. Additionally, for vacancies of Representative Directors, the Nominating Body will recommend an individual to be elected, or provide a list of recommended individuals, and the position shall be filled by the vote of a majority of the Directors then in office. Under the proposed Bylaws, Directors elected to fill a vacancy will serve until the next annual meeting of stockholders.

Removals and Resignation

Article III, Section 7 of the current Bylaws provides that any Director may be removed with or without cause by a majority vote of stockholders and may be removed by the Board, provided however, that any Member Representative Director may only be removed for cause, which includes such Director being subject to a Statutory Disqualification. Additionally, a Director shall be immediately removed upon a determination by the Board, by a majority vote of remaining Directors that (a) the Director no longer satisfies the classification for which the Director was elected and (b) the Director's continued service would violate the compositional requirements of the Board. Article III, Section 7 of the current Bylaws also provides that any Director may resign at any time upon notice of resignation to the Chairman of the Board, the President or Secretary. Resignation shall take effect at the time specified, or if no time is specified, upon receipt of the notice.

Under Article III, Section 3.4 of the proposed Bylaws, which is the same as Article III, Section 3.4, of the CBOE Bylaws, a Director who fails to maintain the applicable Industry or Non-Industry qualifications required under the proposed Bylaws, of which the Board shall be the sole judge, will cease being a Director. The Exchange notes that while the current Bylaws do not address the requalification of a Director, Section 3.4 of the proposed Bylaws permits a Director that fails to maintain the applicable qualifications to requalify within the later of forty-five (45) days from the date when the Board determines the Director is unqualified or until the next regular Board meeting following the date when the Board makes such determination. The Director shall be deemed not to hold office (*i.e.,* the Director's seat is considered vacant) following the date when the Board determines the Director is unqualified. Further, the Board shall be the sole judge of whether the Director has requalified. If a Director is determined to have requalified, the Board, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such Director to the Board; provided, however, that the Board shall be under no obligation to return such Director to the Board. Similar to the current Bylaws, Section 3.4 of the proposed Bylaws provides that Representative Directors may only be removed for cause. In addition to specifying that cause includes being subject to a Statutory Disqualification, the proposed Bylaws further lists additional examples of cause in Section 3.4 (*e.g.,* breach of a Representative Director's duty of loyalty to the Exchange or its stockholders and transactions from which a Representative Director derived an improper personal benefit). Lastly, the Exchange notes that under the proposed Bylaws, resignation must be written and must be given to either the Chairman of the Board or the Secretary.

Board Composition

Pursuant to Article III, Section 2 of the current Bylaws, the Board must consist of four (4) or more Directors, and consist at all times of one (1) Director who is the CEO and a sufficient number of Industry, Non-Industry and Member Representative Directors to ensure that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors. Additionally, the number of Member Representative Directors must be at least twenty (20) percent of the Board. The Exchange proposes to

[16] Article III, Section 3.2 of the CBOE Bylaws provides that in any Run-off Election, a holder of a Trading Permit shall have one vote with respect to each Trading Permit held by such Trading Permit Holder for each Representative Director position to be filled. The Exchange notes that because no ''Trading Permits'' or similar concept exist on the Exchange, it is deviating from this practice and providing instead that each Exchange Member shall have one (1) vote for each Representative Director position to be filled, which the Exchange does not believe is a significant change. The Exchange also notes that other Exchanges have similar practices. *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

[17] The sole stockholder of BYX is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings.

replace the Board composition and structure with that of CBOE and C2. As is the case with CBOE and C2, pursuant to Article III, Section 3.1, of the proposed Bylaws, the Board must consist of at least five (5) directors (which is the minimum number of Directors required for the Nominating and Governance Committee), instead of 4 as required by the current Bylaws. Additionally, the following would apply to the new Board structure:

- The number of Non-Industry Directors, Industry Directors and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any) will be determined by the Board pursuant to resolution adopted by the Board.[18]
- The proposed Bylaws provide that the number of Non-Industry Directors cannot be less than the number of Industry Directors, whereas the current Bylaws, as noted above, provide that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors.[19] Unlike the current Bylaws, the proposed Bylaws provide that the CEO is excluded from the calculation of Industry Directors, as is the practice under CBOE Bylaws.[20] Additionally, the Exchange notes that the CBOE Bylaws do not contain the term or concept of ''Independent Directors'' and in order to conform the proposed Bylaws to the CBOE Bylaws, the proposed Bylaws also do not reference ''Independent Directors'' with respect to composition.
- The Board or the Nominating and Governance Committee will make all materiality determinations regarding who qualifies as an Industry Director and Non-Industry Director.[21]
- Unlike the current Bylaws which provide that the CEO shall be the Chairman of the Board,[22] the proposed Bylaws, provide that the Chairman will be appointed by the Board and further provides that the Board may designate an Acting Chairman in the event the Chairman is absent or fails to act.[23]
- Unlike the current Bylaws which provide that a Lead Director must be designated by the Board among the Board's Independent Directors,[24] the proposed Bylaws provide that the Board may, but does not have to, appoint a Lead Director, who if appointed, must be a Non-Industry Director, which is the same practice under CBOE's Bylaws.[25]
- The number of Representative Directors must be at least twenty (20) percent of the Board,[26] which is the same requirement under the current Bylaws as noted above.

Meetings

Annual Meeting of the Stockholders

Article IV, Section 1 of the current Bylaws provides that the annual meeting of the stockholders shall be held at such place and time as determined by the Board. The Exchange notes that Article II, Section 2.2 of the proposed Bylaws is being amended to conform to Article II, Section 2.2 of the CBOE Bylaws, which provides as a default that if required by applicable law, an annual meeting of stockholders shall be held on the third Tuesday in May of each year or such other date as may be fixed by the Board, at such time as may be designated by the Secretary prior to the giving of notice of the meeting. Section 2.2 of the proposed Bylaws also provides that in no event shall the annual meeting be held prior to the completion of the process for the nomination of Representative Directors. The proposed Bylaws also provide in Article II, Section 2.1 that in addition to the Board, the Chairman (or CEO if there is no Chairman) may designate the location of the annual meeting. The Exchange notes that it is not including the information contained in Article IV, Section 3 of the current Bylaws. Specifically, Section 3 provides that the Secretary of the Exchange (or designee), shall prepare at least ten (10) days before every meeting of stockholders, a complete list of stockholder entitled to vote at the meeting. The Exchange does not believe this provision is necessary given that BYX's sole stockholder is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings (and also notes that neither CBOE nor C2 follow this practice).

Special Meetings of the Stockholders

Article IV, Section 2 of the current Bylaws provides that special meetings of the stockholders may be called by the Chairman, the Board or the President, and shall be called by the Secretary at the request in writing of stockholders owning not less than a majority of the then issued and outstanding capital stock of the Exchange entitled to vote. In order to streamline the rules under which special meetings can be called, the Exchange proposes to adopt the same special meeting provision as Article II, Section 2.3 of the CBOE Bylaws. Particularly, under Article II, Section 2.3 of the proposed Bylaws, special meetings of stockholders may only be called by the Chairman or by a majority of the Board. The CBOE Bylaws do not include the ability of stockholders to request a special meeting. The Exchange does not believe this provision is necessary given that BYX's sole stockholder is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings.

Quorum and Vote Required for Action at a Stockholder Meeting

Article IV, Section 4 of the current Bylaws provides, among other things, that the holders of a majority of the capital stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders. The provision also provides that if there is no quorum at any meeting of the stockholders, the stockholders, present in person or represented by proxy, shall have power to adjourn the meeting until a quorum is present or represented. Additionally, if an adjournment of a meeting of the stockholders is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. Additionally, Article IV, Section 4 provides that when a quorum is present at any meeting, the vote of the holders of a majority of the capital stock having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

The Exchange proposes to adopt Article II, Sections 2.5 and 2.6 of the proposed Bylaws which are the same as Article II, Sections 2.5 and 2.6 of the CBOE Bylaws and similar to Article IV, Section 4 of the current Bylaws. The Exchange notes that unlike the current Bylaws, Article II, Section 2.5 of the proposed Bylaws and CBOE Bylaws do not require notice of an adjourned meeting to be given to each stockholder of record entitled to vote at the meeting if an adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting. The Exchange does

[18] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.1.

[19] *See* Current Bylaws, Article III, Section 2.

[20] *Id.*

[21] *Id.*

[22] *See* Current Bylaws, Article III, Section 5.

[23] *See* Proposed Bylaws and CBOE Bylaws, Article III, Sections 3.6 and 3.8.

[24] *See* Current Bylaws, Article III, Section 5.

[25] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.7.

[26] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.2.

not believe this requirement is necessary given that BYX's sole stockholder is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings. Additionally, in order to conform Article II, Section 2.6 of the proposed Bylaws to the CBOE Bylaws, the Exchange also proposes to explicitly provide that a plurality of votes properly cast shall elect the directors, notwithstanding the language in Article II, 2.6 that provides that when a quorum is present, a majority of the votes properly cast will decide any question brought before a meeting unless a different vote is required by express provision of statute or the Certificate of Incorporation.

Regular Meetings of the Board

Article III, Sections 8 and 9 of the current Bylaws provide that, with or without notice, a resolution adopted by the Board determines the time and place of the regular meeting and that if no designation as to place is made, then the meeting will be held at the principal business office of the Exchange. Article III, Section 3.10 of the proposed Bylaws, which is the same as Article III, Section 3.10 of the CBOE Bylaws, provides that regular meetings shall be held at such time and place as is determined by the Chairman with notice provided to the full Board.

Special Meetings of the Board

Article III, Section 10 of the current Bylaws provides that special meetings of the Board may be called on a minimum of two (2) days' notice to each Director by the Chairman or the President and shall be called by the Secretary upon written request of three (3) Directors. Article III, Section 3.11 of the proposed Bylaws, which is the same as Article III, Section 3.11 of the CBOE Bylaws, however, provides that special meetings of the Board may be called by the Chairman and shall be called by the Secretary upon written request of any four (4) directors. Additionally, under the proposed Bylaws, the Secretary shall give at least twenty-four (24) hours' notice of such meeting.

Board Quorum

Article III, Section 12 of the current Bylaws provides that a majority of the number of Directors then in office shall constitute a quorum, whereas Article III, Section 3.9 of the proposed Bylaws, which is the same as Article III, Section 3.9 of the CBOE Bylaws, provides that two-thirds of the Directors then in office shall constitute a quorum. Increasing the quorum requirement from a majority to two-thirds will ensure that more Directors are present at meetings of the Board in order to transact business for the Exchange.

Committees of the Board

The current bylaws provide for the following standing committees of the Board: A Compensation Committee, an Audit Committee, a Regulatory Oversight Committee, and an Appeals Committee, each to be comprised of at least three (3) members.[27] The current Bylaws also provide that the Exchange may establish an Executive Committee and a Finance Committee.[28] The Exchange proposes to modify the committees of the Board to eliminate the Audit Committee, Appeals Committee, and Compensation Committee, as well as eliminate the provision relating to a Finance Committee. Additionally, the Exchange proposes to require a mandatory Executive Committee and Nominating and Governance Committee, as well as make several amendments to the Regulatory Oversight Committee provision. The Exchange notes that CBOE and C2 have eliminated their Audit and Compensation Committees and do not maintain an Appeals Committee at the Board level. As previously noted, CBOE and C2 do maintain a Board-level Nominating and Governance Committee, which performs the functions of BYX's current Nominating and Member Nominating Committees, which the Exchange proposes to eliminate.

Elimination of Compensation Committee

The Exchange seeks to eliminate the Compensation Committee because it believes that the Compensation Committee's functions are duplicative of the functions of the Compensation Committee of its parent company, CBOE Holdings. Specifically, under its committee charter, the CBOE Holdings Compensation Committee has authority to assist the CBOE Holdings Board of Directors in carrying out its overall responsibilities relating to executive compensation and also, among other things, (i) recommending the compensation of the CBOE Holdings' CEO and certain other executive officers and (ii) approving and administering all cash and equity-based incentive compensation plans of CBOE Holdings that affect employees of the CBOE Holdings and its subsidiaries. Similarly, under its committee charter, the BYX Compensation Committee has authority to fix the compensation of BYX's CEO and to consider and recommend compensation policies, programs, and practices to the BYX CEO in connection with the BYX CEO's fixing of the salaries of other officers and agents of the Exchange.[29] As such, other than to the extent that the BYX Compensation Committee recommends the compensation of executive officers whose compensation is not already determined by the CBOE Holdings Compensation Committee, its activities are duplicative of the activities of the CBOE Holdings Compensation Committee. Indeed, the Exchange notes that currently the BYX Compensation Committee only fixes the compensation amount of the BYX CEO. The Exchange notes that currently the Exchange's CEO is the CEO (*i.e.,* an executive officer) of CBOE Holdings, and as such, the CBOE Holdings Compensation Committee already performs this function. To the extent that compensation need be determined for any BYX officer who is not also a CBOE Holdings officer in the future, the Board or senior management will perform such action without the use of a compensation committee, as provided for in Article V, Section 5.11 of the proposed Bylaws (which is identical to Article V, Section 5.11 of the CBOE Bylaws). Thus, the responsibilities of the BYX Compensation Committee are duplicated by the responsibilities of the CBOE Holdings Compensation Committee. The Exchange believes that its proposal to eliminate its Compensation Committee is substantially similar to prior actions taken by other securities exchanges with parent company compensation committees to eliminate their exchange-level compensation committees, including CBOE and C2.[30]

Elimination of Audit Committee

The Exchange also proposes to eliminate its Audit Committee because its functions are duplicative of the functions of the Audit Committee of its

[27] *See* Current Bylaws, Article V, Section 1 and Section 2(a).

[28] *See* Current Bylaws, Article V, Sections 6(e) and (f), respectively.

[29] The Exchange notes that the Regulatory Oversight Committee (''ROC'') of the BYX Board recommends to the Board compensation for the Chief Regulatory Officer. The Exchange also notes that currently not all executive officers of BYX are required to have their compensation determined by the Compensation Committee.

[30] *See e.g.,* Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017) and Securities Exchange Act Release No. 80522 (April 25, 2017), 82 FR 20409 (May 1, 2017) (SR–C2–2017–009). *See also* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042) and Securities Exchange Act Release No. 62304 (June 16, 2010), 75 FR 36136 (June 24, 2010) (SR–NYSEArca–2010–31).

parent company, CBOE Holdings. Under its committee charter, the CBOE Holdings Audit Committee has broad authority to assist the CBOE Holdings Board in fulfilling its oversight responsibilities in assessing controls that mitigate the regulatory and operational risks associated with operating the Exchange and assist the CBOE Holdings Board of Directors in discharging its responsibilities relating to, among other things, (i) the qualifications, engagement, and oversight of CBOE Holdings' independent auditor, (ii) CBOE Holdings' financial statements and disclosure matters, (iii) CBOE Holdings' internal audit function and internal controls, and (iv) CBOE Holdings' oversight and risk management, including compliance with legal and regulatory requirements. Because CBOE Holdings' financial statements are prepared on a consolidated basis that includes the financial results of CBOE Holdings' subsidiaries, including BYX, the CBOE Holdings Audit Committee's purview necessarily includes BYX. The Exchange notes that unconsolidated financial statements of the Exchange will still be prepared for each fiscal year in accordance with the requirements set forth in its application for registration as a national securities exchange. The CBOE Holdings Audit Committee is composed of at least three (3) CBOE Holdings directors, all of whom must be independent within the meaning given to that term in the CBOE Holdings Bylaws and Corporate Governance Guidelines and Rule 10A–3 under the Act.[31] All CBOE Holdings Audit Committee members must be financially literate (or become financially literate within a reasonable period of time after appointment to the Committee), and at least one (1) member of the Committee must be an ''audit committee financial expert'' as defined by the Securities and Exchange Commission (''SEC''). By contrast, the BYX Audit Committee has a more limited role, focused on BYX. Under its charter, the primary functions of the BYX Audit Committee are focused on (i) BYX's financial statements and disclosure matters and (ii) BYX's oversight and risk management, including compliance with legal and regulatory requirements, in each case, only to the extent required in connection with BYX's discharge of its obligations as a self-regulatory organization. However, to the extent that the BYX Audit Committee reviews financial statements and disclosure matters, its activities are duplicative of the activities of the CBOE Holdings Audit Committee, which is also charged with review of financial statements and disclosure matters. Similarly, the CBOE Holdings Audit Committee has general responsibility for oversight and risk management, including compliance with legal and regulatory requirements, for CBOE Holdings and all of its subsidiaries, including BYX. Thus, the responsibilities of the BYX Audit Committee are fully duplicated by the responsibilities of the CBOE Holdings Audit Committee. The Exchange believes that its proposal to eliminate its Audit Committee is substantially similar to prior actions by other securities exchanges with parent company audit committees to eliminate their exchange-level audit committees, including CBOE and C2.[32]

Elimination of Appeals Committee

The Exchange next proposes to eliminate the Appeals Committee. Pursuant to Article V, Section 6(d) of the current Bylaws, the Chairman, with the approval of the Board, shall appoint an Appeals Committee. The Appeals Committee shall consist of one (1) Independent Director, one (1) Industry Director, and one (1) Member Representative Director and presides over all appeals related to disciplinary and adverse action determinations in accordance with the Rules. The Exchange notes that neither CBOE nor C2 maintain a Board-level Appeals Committee. Rather, CBOE and C2 currently maintain an Exchange-level Appeals Committee.[33] The Exchange notes that although it is proposing to eliminate the Appeals Committee as a specified Board-level committee at this time, the Exchange will still have the ability to appoint either a Board-level or exchange-level Appeals Committee pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws. Although, CBOE and C2 have a standing exchange-level Appeals Committee, the Exchange prefers not to have to maintain and staff a standing Appeals Committee, but rather provide its Board the flexibility to determine whether to establish a Board-level or exchange-level Appeals Committee, as needed or desired. The Exchange also notes that other Exchanges similarly do not require standing Appeals Committees.[34] The elimination of the requirement in the bylaws to maintain a standing Appeals Committee would provide consistency among the Bylaws for all of CBOE Holdings' U.S. securities exchanges, while still providing the Board the authority to appoint an Appeals Committee in the future as needed.

Elimination of Finance Committee

Pursuant to Article V, Section 6(f) of the current Bylaws, the Chairman, with the approval of the Board, may appoint a Finance Committee. The Finance Committee shall advise the Board with respect to the oversight of the financial operations and conditions of the Exchange, including recommendations for the Exchange's annual operating and capital budgets. The Exchange notes that it does not currently have a Finance Committee and that, similarly, CBOE and C2 do not have an exchange-level Finance Committee. As the Exchange currently does not maintain, and has no current intention of establishing, an exchange-level Finance Committee, it does not believe it is necessary to maintain this provision. The Exchange notes that should it desire to establish a Finance Committee in the future, it still maintains the authority to do so under Article IV, Section 4.1 of the proposed Bylaws.

Changes to the Regulatory Oversight Committee

Article V, Section 6(c) of the current Bylaws relates to the Regulatory Oversight Committee (''ROC''), which oversees the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities. The Exchange proposes to adopt Article IV, Section 4.4, which amends the ROC provision to conform to Article IV, Section 4.4 of the CBOE Bylaws.[35] First, the Exchange proposes to specify that the ROC shall consist of at least three (3) directors, all of whom are Non-Industry Directors who are appointed by the Board on the recommendation of the Non-Industry Directors serving on the Nominating and Governance Committee (including the designation of the Chairman of the ROC). While the current Bylaws also require all ROC members to be Non-Industry Directors, it does not specify a minimum number of directors. The current Bylaws also

[31] 17 CFR 240.10A–3.

[32] *See, e.g.,* Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010) and Securities Exchange Act Release No. 64128 (March 25, 2011), 76 FR 17973 (March 31, 2011) (SR–C2–2011–003). *See also,* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR- NASDAQ–2009–042).

[33] *See e.g.,* CBOE Rule 2.1 and C2 Chapter 19, which incorporates by reference CBOE Chapter XIX (Hearings and Review), which references the Appeals Committee.

[34] For example, neither the Bylaws nor Rules of BOX Options Exchange, LLC mandate an Appeals Committee. *See* Bylaws of Box Options Exchange LLC and Rules of Box Options Exchange, LLC.

[35] The Exchange does not intend at this time to rename the ROC the ''Regulatory Oversight and Compliance Committee'' (''ROCC''), which is the name of the equivalent committee of CBOE and C2.

provide that the Chairman of the Board (instead of a Nominating and Governance Committee), with approval of the Board, appoints the ROC members.

Next, while the current Bylaws explicitly delineate some of the ROC's responsibilities, the Exchange proposes to provide more broadly that the ROC shall have the duties and may exercise such authority as may be prescribed by resolution of the Board, the Bylaws or the Rules of the Exchange. Particularly, Article V, Section 6(c) of the current Bylaws provide that the ROC shall oversee the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities, assess the Exchange's regulatory performance, assist the Board and Board committees in reviewing the regulatory plan and the overall effectiveness of Exchange's regulatory functions and, in consultation with the CEO, establish the goals, assess the performance, and fix the compensation of the Chief Regulatory Officer (''CRO''). The Exchange notes that the ROC will continue to have the foregoing duties and authority, with the exception that the ROC will no longer consult the CEO with respect to establishing the goals, assessing the performance and fixing compensation of the CRO. The proposed change to eliminate the CEO's involvement in establishing the goals, assessing the performance and fixing compensation of the CRO is consistent with the Exchange's desire to maintain the independence of the regulatory functions of the Exchange. The Exchange notes that each of the abovementioned proposed changes provide for the same language and appointment process used by CBOE and C2 with respect to the ROC, which provides consistency among the CBOE Holdings U.S. securities exchanges.[36]

Creation of a Mandatory Executive Committee

Article V, Section 6(e) of the current Bylaws provides that the Chairman, with approval of the Board, may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange between meetings of the Board.[37] The current Bylaws provide that the number of Non-Industry Directors on the Executive Committee shall equal or exceed the number of Industry Directors on the Executive Committee. In addition, the percentage of Independent Directors on the Executive Committee shall be at least as great as the percentage of Independent Directors on the whole Board, and the percentage of Member Representative Directors on the Executive Committee shall be at least as great as the percentage of Member Representative Directors on the whole Board.

Under the proposed Bylaws, the Exchange proposes to require that the Exchange maintain an Executive Committee and delineates its composition and functions in Article IV, Section 4.2 of the proposed Bylaws. Similar to the current Bylaw provisions relating to the Executive Committee, the proposed Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange. Unlike the current Executive Committee provisions, however, the proposed Executive Committee shall not have the power and authority of the Board to (i) approve or adopt or recommend to the stockholders any action or matter (other than the election or removal of Directors) expressly required by Delaware law to be submitted to stockholders for approval, including without limitation, amending the certificate of incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Exchange's property and assets, or approval of a dissolution of the Exchange or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any bylaw of the Exchange. Additionally, Section 4.2 of the proposed Bylaws provides that the Executive Committee shall consist of the Chairman, the CEO (if a Director), the Lead Director, if any, at least one (1) Representative Director and such other number of Directors that the Board deems appropriate, provided that in no event shall the number of Non-Industry Directors constitute less than the number of Industry Directors serving on the Executive Committee (excluding the CEO from the calculation of Industry Directors for this purpose). The Directors (other than the Chairman, CEO and Lead Director, if any) serving on the Executive Committee shall be appointed by the Board on the recommendation of the Nominating and Governance Committee of the Board. Directors serving on the Executive Committee may be removed by the Board in accordance with the bylaws. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of the Executive Committee shall be a voting member and shall serve for a term of one (1) year expiring at the first regular meeting of Directors following the annual meeting of stockholders each year or until their successors are appointed. The Exchange notes that CBOE and C2 have an Executive Committee and that the proposed composition requirements and functions are the same as CBOE and C2.[38]

Elimination of Nominating and Member Nominating Committees and Creation of Nominating and Governance Committee

The Exchange also proposes to eliminate the current Nominating and Member Nominating Committees, and to prescribe that their duties be performed by the new Nominating and Governance Committee of the Board (as discussed below). The Nominating Committee is a non-Board committee and is elected on an annual basis by vote of the Exchange's sole stockholder, Bats Global Markets Holdings, Inc.[39] The Nominating Committee is primarily charged with nominating candidates for election to the Board at the annual stockholder meeting and all other vacant or new Director positions on the Board and ensuring, in making such nominations, that candidates meet the compositional requirements set forth in the bylaws. The Member Nominating Committee is also a non-Board committee and elected on an annual basis by vote of the Exchange's sole stockholder, Bats Global Markets Holdings, Inc.[40] Each Member Nominating Committee member must be a Member Representative member (*i.e.,* an officer, director, employee or agent of an Exchange Member that is not a Stockholder Exchange Member).[41] The Member Nominating Committee is primarily charged with nominating candidates for each Member Representative Director position on the Board.

The Exchange proposes to adopt a Nominating and Governance Committee which would have the same responsibilities currently delegated to the CBOE and C2 Nominating and Governance Committees. Specifically, the Exchange proposes to adopt Article IV, Section 4.3, which is the same as

[36] *See* CBOE Bylaws Article IV, Section 4.4.

[37] The Exchange does not presently have an Executive Committee.

[38] *See* CBOE Bylaws, Article IV, Section 4.2.

[39] *See* Article VI, Sections 1 and 2. A Nominating Committee member may simultaneously serve on the Nominating Committee and the Board, unless the Nominating Committee is nominating Director candidates for the Director's class. The number of Non-Industry members on the Nominating Committee shall equal or exceed the number of Industry members on the Nominating Committee.

[40] *See* Article VI, Sections 1 and 3.

[41] *See* Article VI, Section 3.

Article IV, Section 4.3 of the CBOE Bylaws, which would provide that the Nominating and Governance Committee shall consist of at least five (5) directors and shall at all times have a majority of Non-Industry Directors. Members of the committee would be recommended by the Nominating and Governance Committee for approval by the Board and shall not be subject to removal except by the Board. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance Committee for approval by the Board. The Nominating and Governance Committee would be primarily charged with the authority to nominate individuals for election as Directors of the Exchange. The Nominating and Governance Committee would also have such other duties and may exercise such other authority as may be prescribed by resolution of the Board and the Nominating and Governance Committee charter as adopted by resolution of the Board. If the Nominating and Governance Committee has two (2) or more Industry Directors, there shall be an Industry-Director Subcommittee consisting of all of the Industry Directors then serving on the Nominating and Governance Committee, which shall act as the Representative Director Nominating Body (as previously discussed) if and to the extent required by the proposed Bylaws. The Exchange believes that the duties and functions of the eliminated Nominating and Member Nominating Committees would continue to be performed and covered in the new corporate governance structure under the proposed Bylaws.

Creation of an Advisory Board

The Exchange proposes to adopt Article VI, Section 6.1, which provides that the Board may establish an Advisory Board which shall advise the Board and management regarding matters of interest to Exchange Members. The Exchange believes the Advisory Board could provide a vehicle for Exchange management to receive advice from the perspective of Exchange Members and regarding matters that impact Exchange Members. Under Article VI, Section 6.1 of the proposed Bylaws, the Board would determine the number of members of an Advisory Board, if established, including at least two members who are Exchange Members or persons associated with Exchange Members. Additionally, the CEO or his or her designee would serve as the Chairman of an Advisory Board and the Nominating and Governance Committee would recommend the members of an Advisory Board for approval by the Board. There would also be an Exchange Member Subcommittee of the Advisory Board consisting of all members of the Advisory Board who are Exchange Members or persons associated with Exchange Members, which shall act as the Representative Director Nominating Body if and to the extent required by the proposed Bylaws. An Advisory Board would be completely advisory in nature and not be vested with any Exchange decision-making authority or other authority to act on behalf of the Exchange. The Exchange notes that CBOE and C2 currently maintain an Advisory Board, with the same proposed compositional requirements and functions.[42] The Exchange also notes, however, that while for CBOE and C2 an Advisory Board is mandatory, an Advisory Board for the Exchange would be permissive as the Exchange desires flexibility to determine if an Advisory Board should be established in the future. The Exchange notes that there is no statutory requirement to maintain an Advisory Board or Advisory Committee and indeed, other Exchanges, including BYX itself, do not require the establishment of an Advisory Board.[43]

Officers, Agents and Employees

General

Article VII, Section 1 of the current Bylaws provides that that an individual may not hold office as both the President and Secretary, whereas the CBOE Bylaws provide an individual may not hold office as both the CEO and President and that the CEO and President may not hold office as either the Secretary or Assistant Secretary.[44] As these requirements are similar, if not more restrictive under the CBOE Bylaws, the Exchange proposes to include the same provisions in CBOE Bylaws in Article V, Section 5.1 of the proposed Bylaws.

Resignation and Removal

Article VII, Section 3 of the current Bylaws provides that any officer may resign at any time upon notice of resignation to the Chairman and CEO, the President or the Secretary. The Exchange proposes to amend the provision relating to officer resignations to provide that any officer may resign at any time upon delivering written notice to the Exchange at its principal office, or to the CEO or Secretary.[45] Article VII, Section 3 of the current Bylaws also provides that any officer may be removed, with or without cause, by the Board. The Exchange proposes to provide that, in addition to being removed by the Board, an officer may be removed at any time by the CEO or President (provided that the CEO can only be removed by the Board).[46] Provisions relating to resignation and removal of officers in the proposed Bylaws will be identical to the relevant provisions of the CBOE Bylaws.[47]

Compensation

Article VII, Section 4 of the current Bylaws provides that the CEO, after consultation of the Compensation Committee, shall fix the salaries of officers of the Exchange and also states that the CEO's compensation shall be fixed by the Compensation Committee. In order to conform compensation practices to those of CBOE and C2, the Exchange proposes to modify these provisions to provide that in lieu of the CEO, the Board, unless otherwise delegated to a committee of the Board or to members of senior management, may fix the salaries of officers of the Exchange.[48] Additionally, in conjunction with the proposed change to eliminate the BYX Compensation Committee, the Exchange proposes to eliminate language providing that the CEO's compensation is fixed by the Compensation Committee.

Chief Executive Officer and President

Article VII, Section 6 of the current Bylaws pertains to the CEO. The current Bylaws provide that the CEO shall be the Chairman of the Board. CBOE and C2, however, do not require that the CEO be Chairman of the Board. The Exchange desires similar flexibility in appointing its Chairman and, therefore, this requirement is not carried over in the proposed Bylaws.[49] Instead, Article V, Section 5.1 of the proposed Bylaws provides that the CEO shall be appointed by an affirmative vote of the majority of the Board, and may but need not be, the Chairman of the Board. The Exchange notes that to conform the language to the CBOE Bylaws, Article V, Section 5.2 of the proposed Bylaws also states that the CEO shall be the official representative of the Exchange in all public matters and provides that the CEO shall not engage in another

[42] *See* Article VI, Section 6.1 of CBOE Bylaws.

[43] For example, BOX Options Exchange, LLC does not require an advisory committee.

[44] *See* Article V, Section 5.1 of CBOE Bylaws.

[45] *See* Proposed Bylaws, Article V, Section 5.9.

[46] *See* Proposed Bylaws, Article V, Section 5.8.

[47] *See* Article V, Sections 5.8 and 5.9 of the CBOE Bylaws.

[48] *See* Proposed Bylaws, Article V, Section 5.11.

[49] The Exchange notes that currently the CEO of BYX is also Chairman of the Board.

business during his incumbency except with approval of the Board. Additionally, the Exchange proposes not to carry over language in the current Bylaws that provides that the CEO shall not participate in executive sessions of the Board, as CBOE Bylaws do not contain a similar restriction.

Article V, Section 5.3 of the proposed Bylaws proposes to provide that the President shall be the chief operating officer of the Exchange. The Exchange notes that the current Bylaws do not address appointing a chief operating officer. Additionally, while Article VII, Section 7 of the current Bylaws provides that the President shall have all powers and duties usually incident to the office of the President, except as specifically limited by a resolution of the Board, and shall exercise such other powers and perform such other duties as may be assigned to the President from time to time by the Board, Article V, Section 5.3 of the proposed Bylaws further states that in the event that the CEO does not act, the President shall perform the officer duties of the CEO, which is consistent with the language in the CBOE Bylaws.

Other Officers

The Exchange notes the following modifications relating to officer provisions in the proposed Bylaws, which are intended to conform the proposed Bylaws to the CBOE Bylaws:

- Article V, Sections 5.1 and 5.4 of the proposed Bylaws, which is identical to Article V, Sections 5.1 and 5.4 of the CBOE Bylaws, will provide that the Chief Financial Officer (''CFO'') is designated as an officer of the Exchange and that the Board and CEO may assign the CFO powers and duties as they see fit. The Exchange notes that the role of a CFO is not referenced in the current Bylaws.
- The proposed Bylaws eliminate the requirement in the current Bylaws that the Chief Regulatory Officer (''CRO'') is a designated officer of the Exchange.[50] As noted above, the Exchange desires to conform its Bylaws to the Bylaws of CBOE and the CBOE Bylaws do not reference the role of the CRO. The Exchange notes that notwithstanding the proposed elimination of the CRO provision, there is no intention to eliminate the role of the CRO.
- Article VII, Section 10 of the current Bylaws requires the Secretary to keep official records of Board meetings. The Exchange proposes to add to Article V, Section 5.6 of the proposed Bylaws, which is similar to the current Bylaws and based on Article V, Section 5.6 of the CBOE Bylaws, which requires that in addition to all meetings of the Board, the Secretary must keep official records of all meetings of stockholders and of Exchange Members at which action is taken.
- Article V, Section 5.7 of the proposed Bylaws, which is based on Article 5.7 of the CBOE Bylaws, would provide that the Treasurer perform such duties and powers as the Board, the CEO or CFO proscribes (whereas Article VII, Section 12 of the current Bylaws provides that such duties and powers may be proscribed by the Board, CEO or President).
- While the current Bylaws contain separate provisions relating to an Assistant Secretary and an Assistant Treasurer, the proposed Bylaws do not, as CBOE Bylaws similarly do not contain such provisions.[51]

Amendments

Article IX, Section 1 of the current Bylaws provides that the bylaws may be altered, amended, or repealed, or new bylaws adopted, (i) by written consent of the stockholders of the Exchange or (ii) at any meeting of the Board by resolution. The proposed Bylaws, however, eliminate the ability of stockholders to act by written consent and instead provides that in order for the stockholders of the Exchange to alter, amend, repeal or adopt new bylaws, there must be an affirmative vote of the stockholders present at any annual meeting at which a quorum is present.[52] Additionally, unlike the current Bylaws, the Exchange proposes to explicitly provide that changes to the bylaws shall not become effective until filed with or filed with and approved by the SEC, to avoid confusion as to when proposed amendments to the Bylaws can take effect.[53] The proposed provisions are the same as the corresponding provisions in the CBOE Bylaws.[54]

General Provisions

The Exchange proposes to add Article VIII, Section 8.1 of the proposed Bylaws, which is the same as Article VIII, Section 8.1 of the CBOE Bylaws, that unless otherwise determined by the Board, the fiscal year of the Exchange ends on the close of business December 31 each year, as compared to Article XI, Section 1 of the current Bylaws, which provides that the fiscal year of the Exchange shall be as determined from time to time by the Board. Note that the Exchange's fiscal year currently ends on the close of business December 31 each year.

The Exchange also proposes to add Article VIII, Section 8.2 of the proposed Bylaws, which is the same as Article VIII, Section 8.2 of the CBOE Bylaws, which governs the execution of instruments such as checks, drafts and bills of exchange and contracts and which is similar to Article XI, Section 6 of the current Bylaws.

Next, the Exchange proposes to adopt Article VIII, Section 8.4, which provides that, except as the Board may otherwise designate, the Chairman of the Board, CEO, CFO or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Exchange (with or without power of substitution) at, any meeting of stockholders or shareholders of any other corporation or organization, the securities of which may be held by the Exchange. The proposed provision is the same as Article VIII, Section 8.4 of the CBOE Bylaws and similar to Article XI, Section 7 of the current Bylaws, which provides generally that the CEO has the power and authority to act on behalf of the Company at any meeting of stockholders, partners or equity holders of any other corporation or organization, the securities of which may be held by the Exchange.

The Exchange proposes to adopt Article VIII, Section 8.7, which governs transactions with interested parties. Proposed Article VIII, Section 8.7 is the same as Article VIII, Section 8.7 of the CBOE Bylaws and substantially similar to language contained in Article III, Section 18 of the current Bylaws. Similarly, the Exchange proposes to adopt Article VIII, Section 8.8 which governs severability and is the same as Article VIII, Section 8.8 of CBOE Bylaws and substantially similar to Article XI, Section 8 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.10 which provides that the board may authorize any officer or agent of the Corporation to enter into any contract, or execute and deliver any instrument in the name of, or on behalf of the Corporation. The proposed language is the same as the language in Article VIII, Section 8.10 of the CBOE Bylaws and similar to related language in Article XI, Section 6 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.12, relating to books and records and which is the same as Article VIII, Section 8.12 of CBOE Bylaws and which is similar to language contained in Article XI, Section 3 of the current Bylaws.

[50] *See* Current Bylaws, Article VII, Section 9.

[51] *See* Article VII, Sections 11 and 13 of the current Bylaws.

[52] *See* Proposed Bylaws, Article IX, Section 9.2.

[53] *See* Proposed Bylaws, Article IX, Section 9.3.

[54] *See* Article IX, Sections 9.2 and 9.3 of the CBOE Bylaws.

New Bylaw Provisions

The Exchange proposes to add provisions to the proposed Bylaws that are not included in the current Bylaws in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges. Specifically, the Exchange proposes to add the following to the proposed Bylaws:

- Article VII, which addresses notice requirements for any notice required to be given by the bylaws or Rules, including Article VII, Section 7.2, which provides whenever any notice to any stockholder is required, such notice may be given by a form of electronic transmission if the stockholder to whom such notice is given has previously consented to the receipt of notice by electronic transmission. The language mirrors the language set forth in Article VII, Section 7.2 of the CBOE Bylaws.
- Article VIII, Section 8.3 which is identical to Article VIII, Section 8.3 of the CBOE Bylaws, which provides that the corporate seal, if any, shall be in such form as approved by the board or officer of the Corporation.
- Article VIII, Section 8.5, which provides that a certificate by the Secretary, or Assistant Secretary, if any, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Exchange shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action. This language is identical to the language contained in Article VIII, Section 8.5 of the CBOE Bylaws.
- Article VIII, Section 8.6., which is identical to Article VIII, Section 8.6 of the CBOE Bylaws, which provides all references to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended, altered or restated and in effect from time to time.
- Article VIII, Section 8.11, which provides that the Exchange may lend money or assist an employee of the Exchange when the loan, guarantee or assistance may reasonably benefit the Exchange. This language is identical to the language contained in Article VIII, Section 8.11 of the CBOE Bylaws.

Eliminated Bylaw Provisions

The Exchange notes that the following provisions in the current Bylaws are not carried over in either the proposed Bylaws or proposed Certificate in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges:

- Article III, Sections 13 and 17. Section 13 provides that a director who is present at a Board or Board Committee meeting at which action is taken is conclusively presumed to have assented to action being taken unless his or her dissent or election to abstain is entered into the minutes or filed. Section 17 provides that the Board has the power to interpret the Bylaws and any interpretations made shall be final and conclusive. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.
- Article IX, Section 2, which relates to the Board's authority to adopt emergency Bylaws to be operative during any emergency resulting from, among other things, any nuclear or atomic disaster or attack on the United States, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee cannot readily be convened for action. Similarly, Article IX, Section 3, provides that the Board, or Board's designee, in the event of extraordinary market conditions, has the authority to take certain actions. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.
- Article X, Section 2, which relates to disciplinary proceedings and provides that the Board is authorized to establish procedures relating to disciplinary proceedings involving Exchange Members and their associated persons, as well as impose various sanctions applicable to Exchange Members and persons associated with Exchange Members. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. Additionally, the Exchange notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such procedures and/or rules if necessary or desirable.[55]
- Article X, Section 3, which relates to membership qualifications and provides, among other things, that the Board has authority to adopt rules and regulations applicable to Exchange Members and Exchange Member applicants, as well as establish specified and appropriate standards with respect to the training, experience, competence, financial responsibility, operational capability, and other qualifications. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. The Exchange again notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such rules and regulations if necessary or desirable.
- Article X, Section 4, which relates to fees, provides that the Board has authority to fix and charge fees, dues, assessments, and other charges to be paid by Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls; provided that such fees, dues, assessments, and other charges shall be equitably allocated among Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls. The Exchange does not wish to include this section of the provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. To the extent the Board wishes to adopt such fees and dues, it has the authority pursuant to Article III, Section 3.3 of the proposed Bylaws. The Exchange notes that with respect to the language in Article X, Section 4 of the current Bylaws relating to the prohibition of using revenues received from fees derived from its regulatory function or penalties for non-regulatory purposes, similar language exists within CBOE Rules, particularly, CBOE Rule 2.51. In order to conform the Bylaws, the Exchange wishes to similarly relocate this language to its rules, instead of maintaining it in its Bylaws. Specifically, the Exchange proposes to adopt new Rule 15.2, which language is based off CBOE Rule 2.51. The Exchange notes that this provision is designed to preclude the Exchange from using its authority to raise regulatory funds for the purpose of benefitting its Stockholder. Unlike CBOE Rule 2.51 however, proposed Rule 15.2 explicitly provides that regulatory funds may not be distributed to the stockholder. The Exchange notes that this language is currently contained in Article X, section 4 of the current Bylaws. Additionally, while not explicit in CBOE Rule 2.51, the Exchange notes that the rule filing that adopted Rule 2.51 does similarly state that regulatory funds may be not distributed to CBOE's stockholder.[56] Although proposed Rule 15.2 will differ slightly from CBOE Rule

[55] The Exchange notes that the language in proposed Article III, Section 3.3 is similar to language provided for in Article X, Section 1 of the current Bylaws.

[56] *See* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088).

2.51, the Exchange wishes to make this point clear to avoid potential confusion. Lastly, the Exchange notes that unlike Article X, Section 4 of the current Bylaws, proposed Rule 15.2, like CBOE Rule 2.51, will provide that notwithstanding the preclusion to use regulatory revenue for non-regulatory purposes, in the event of liquidation of the Exchange, Bats Global Markets Holdings, Inc. will be entitled to the distribution of the remaining assets of the Exchange.

• Certain sections in Article XI, including Section 2 (''Participation in Board and Committee Meetings''), Section 4 (''Dividends'') and Section 5 (''Reserves''). More specifically, Article XI, Section 2 governs who may attend Board and Board committee meetings pertaining to the self-regulatory function of the Exchange and particularly, provides among other things, that Board and Board Committee meetings relating to the self-regulatory function of the Company are closed to all persons other than members of the Boards, officers, staff and counsel or other advisors whose participation is necessary or appropriate.[57] Article XI, Section 4 provides that dividends may be declared upon the capital stock of the Exchange by the Board. Article XI, Section 5 provides that before any dividends are paid out, there must be set aside funds that the Board determines is proper as a reserves. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' U.S. securities exchanges.

(c) Changes to Rules

The Exchange will also amend its rules in conjunction with the proposed changes to its bylaws. The proposed rule changes are set forth in Exhibit 5E. First, the Exchange proposes to update the reference to the bylaws in Rule 1.1. Next, the Exchange notes that in order to keep the governance documents uniform, it proposes to eliminate the definitions of ''Industry member'', ''Member Representative member'' and ''Director'' from Article I of the current Bylaws. The Exchange notes that Industry members and Member Representative members are still used for Hearing Panels pursuant to Rule 8.6. As such, the Exchange proposes to relocate these definitions to the rules (specifically, Rule 8.6) and proposes to update the reference to the location of the definitions in Rule 8.6 accordingly (*i.e.,* refer to the definition in Rule 8.6 as opposed to the definition in the bylaws). The Exchange also proposes to eliminate language in Rule 2.10 that, in connection with a reference to ''Director'', states ''as such term is defined in the Bylaws of the Exchange''. As the definition of Director is being eliminated in the Bylaws, the Exchange is seeking to remove the obsolete language in Rule 2.10.

Lastly, as discussed above, the Exchange proposes to add new Rule 15.2, which will provide that any revenues received by the Exchange from fees derived from its regulatory function or regulatory fines will not be used for non-regulatory purposes or distributed to the Stockholder, but rather, shall be applied to fund the legal and regulatory operations of the Exchange (including surveillance and enforcement activities), or be used to pay restitution and disgorgement of funds intended for customers (except in the event of liquidation of the Exchange, which case Bats Global Markets Holdings, Inc. will be entitled to the distribution of the remaining assets of the Exchange). As more fully discussed above in the ''Eliminated Bylaw Provisions'' section, the proposed change is similar to Article X, Section 4 of the current Bylaws and based on Rule 2.51 of CBOE Rules.

The Exchange believes that the proposed changes to the current Bylaws and current Certificate would align its governance documents with the governance documents of each of CBOE and C2, which preserves governance continuity across each of CBOE Holdings' six U.S. securities exchanges. The Exchange also notes that the Exchange will continue to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply and to enforce compliance by its Members and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the Rules, as required by Section 6(b)(1) of the Act.[58]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[59] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[60] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[61] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that its proposal to adopt the Board and committee structure and related nomination and election processes set forth in the proposed Bylaws are consistent with the Act, including Section 6(b)(1) of the Act, which requires, among other things, that a national securities exchange be organized to carry out the purposes of the Act and comply with the requirements of the Act. In general, the proposed changes would make the Board and committee composition requirements, and related nomination and election processes, more consistent with those of its affiliates, CBOE and C2. The Exchange therefore believes that the proposed changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated

[57] Article XI, Section 2 also provides that in no event shall members of the Board of Directors of CBOE Holdings, Inc., CBOE V, LLC or Bats Global Markets Holdings, Inc. who are not also members of the Board, or any officers, staff, counsel or advisors of CBOE Holdings, Inc., CBOE V, LLC or Bats Global Markets Holdings, Inc. who are not also officers, staff, counsel or advisors of the Company (or any committees of the Board), be allowed to participate in any meetings of the Board (or any committee of the Board) pertaining to the self-regulatory function of the Company (including disciplinary matters).

[58] 15 U.S.C. 78f(b)(1).

[59] 15 U.S.C. 78f(b).

[60] 15 U.S.C. 78f(b)(5).

[61] *Id.*

with members. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3)[62] and (b)(5) of the Act in particular, in that it is designed to assure a fair representation of Exchange Members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer; and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. For example, the number of Non-Industry Directors must not be less than the number of Industry Directors. Additionally, the Exchange believes that the 20% requirement for Representative Directors and the proposed method for selecting Representative Directors ensures fair representation and allows members to have a voice in the Exchange's use of its self-regulatory authority. For instance, the proposed Bylaws includes a process by which Exchange members can directly petition and vote for representation on the Board.

Additionally, the Exchange believes the proposed Certificate, Bylaws and rules support a corporate governance framework, including the proposed Board and Board Committee structure that preserves the independence of the Exchange's self-regulatory function and insulates the Exchange's regulatory functions from its market and other commercial interests so that the Exchange can continue to carry out its regulatory obligations. Particularly, the proposed governance documents provide that Directors must take into consideration the effect that his or her actions would have on the ability of the Company to carry out its regulatory responsibilities under the Act and the proposed changes to the rules includes the restriction on using revenues derived from the Exchange's regulatory function for non-regulatory purposes, which further underscores the independence of the Exchange's regulatory function. The Exchange also believes that requiring that the number of Non-Industry Directors not be less than the number of Industry Directors and requiring that all Directors serving on the ROC be Non-Industry Directors would help to ensure that no single group of market participants will have the ability to systematically disadvantage other market participants through the exchange governance process, and would foster the integrity of the Exchange by providing unique, unbiased perspectives.

Moreover, the Exchange believes that the new corporate governance framework and related processes being proposed are consistent with Section 6(b)(5) of the Act because they are substantially similar to the framework and processes used by CBOE and C2, which have been well-established as fair and designed to protect investors and the public interest.[63] The Exchange believes that conforming its governance documents based on the documents of the CBOE and C2 exchanges would streamline the CBOE Holdings' U.S. securities exchanges' governance process, create equivalent governing standards among the exchanges and also provide clarity to its members, which is beneficial to both investors and the public interest.

To the extent there are differences between the current CBOE and C2 framework and the proposed Exchange framework, the Exchange believes the differences are reasonable. First, the Exchange believes it's reasonable to provide that in Run-Off Elections, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year instead of one vote per Trading Permit held, because the Exchange, unlike CBOE and C2, does not have Trading Permits and because other exchanges have similar practices.[64] The Exchange believes it's also reasonable not to require the establishment of an Advisory Board, as the Exchange desires flexibility in maintaining such a Committee, and is not statutorily required to maintain such a committee. Additionally, the Exchange notes that it currently does not have an Advisory Board. Lastly, the Exchange notes that it is reasonable to not require a standing exchange-level Appeals Committee because the Board still has the authority to appoint an Appeals Committee in the future as needed pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws and because an Appeals Committee is not statutorily required.

Finally, the proposed amendments to the rules as discussed above are non-substantive changes meant to merely update the Rules in light of the proposed changes to the current Bylaws and to relocate certain provisions to better conform the Exchange's governance documents to those of CBOE and C2.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of BYX and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR-BatsBYX-2017-19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBYX–2017–19. This file number

[62] 15 U.S.C. 78f(b)(3).

[63] *See e.g.,* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 17974 [sic] (May 28, 2010) (SR–CBOE–2008–088); Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010); and Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017).

[64] *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBYX–2017–19 and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18792 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[65] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81502; File No. SR–IEX–2017–28]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees Pursuant to Rule 15.110

August 30, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b19b–4 thereunder,[3] notice is hereby given that, on August 16, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) to adopt pricing for orders that execute pursuant to Rule 11.231 (Regular Market Session Opening Process for Non-IEX-Listed Securities). Changes to the Fee Schedule pursuant to this proposal are effective upon filing, and will be operative once the Exchange begins conducting the Regular Market Session Opening Process for Non-IEX-Listed Securities (the ''Opening Process'').[6] The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange Exchange recently filed and the Commission approved a proposed rule change to Rule 11.231, which modified the Opening Process for non-IEX-listed securities.[7] The Exchange proposes to update its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to add a new Fee Code ''X'' to identify the fee applicable to certain orders that execute in the Opening Process. More specifically, orders that execute in the Opening Process will receive the new Fee Code X on execution reports as follows:

- Execution reports for non-displayed orders resting on the Continuous Order Book that execute in the Opening Process will receive new Fee Code X rather than Fee Code I.[8]
- Execution reports for displayed orders resting on the Continuous Order Book that execute in the Opening Process will continue to receive Fee Code L and will also receive new Fee Code X.
- Execution reports for all orders on the Cross Book [9] that execute in the Opening Process will receive new Fee Code X.

The Exchange is proposing to charge fees that are analogous to existing fees for orders that execute in the Opening Process. Accordingly, non-displayed orders on the Continuous Order Book and orders on the Cross Book that are executed in the Opening Process will receive Fee Code X on their execution reports and will be subject to a fee of $0.0009 per share (or 0.30% of total dollar value of the transaction calculated as the execution price multiplied by the number of shares executed in the transaction for shares executed below $1.00). Further, orders that were displayed on the Continuous Order Book during the Pre-Market Session [10] that are executed in the Opening Process will receive new Fee Code X and existing Fee Code L, and will not be charged a fee because, pursuant to the IEX Fee Schedule, to the extent a Member receives multiple Fee Codes on an execution, the lower fee shall apply.[11]

The Exchange notes that the Internalization Fee, Displayed Match Fee for non-displayed orders that remove displayed liquidity, and the exception to the Non-Displayed Match Fee for displayable orders that remove non-displayed resting interest upon entry are not applicable to the Opening

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See,* IEX Trader Alert #2017–027 available at *https://www.iextrading.com/trading/alerts/2017/027/.*

[7] *See* Securities Exchange Act Release No. 81195 (July 24, 2017), 82 FR 35250 (July 28, 2017) (SR–IEX–2017–11).

[8] The Exchange notes that orders taking or adding non-displayed liquidity prior to or after the Opening Process, will continue to receive Fee Close I, either alone or in conjunction with other applicable Fee Codes.

[9] *See* Rule 11.231(a).

[10] *See* Rule 1.160(z).

[11] *See* IEX Fee Schedule, Transaction Fees, bullet three.

Process. As discussed below in the Statutory Basis section, the Opening Process is a bulk execution without explicit counterparties.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [12] of the Act in general, and furthers the objectives of Sections 6(b)(4) [13] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

IEX believes that its proposed pricing for the Opening Process is reasonable and equitable because the Exchange is proposing to charge fees analogous to those already in place for orders executed on the Exchange during continuous trading,[14] while also accounting for orders on the Cross Book executed in the Opening Process. Specifically, non-displayed orders resting on the Continuous Order Book during the Pre-Market Session that are executed in the Opening Process, as well as orders on the Cross Book that are executed in the Opening Process, will be charged the Opening Match Fee (which is equal to the existing Non-Displayed Match Fee), while displayed orders on the Continuous Order Book in the Pre-Market Session executed in the Opening Process will be subject to the existing Displayed Match Fee.

The Exchange believes that it is appropriate, reasonable, and consistent with the Act to charge the Opening Match Fee (which is equal to the existing Non-Displayed Match Fee) to orders on the Cross Book that are executed in the Opening Process, because such orders (regardless of display instruction) are queued and not displayed prior to or during the Opening Process.[15] Furthermore, as noted above, such fee is consistent with the fee currently charged by the Exchange for taking and providing non-displayed liquidity.

While the Displayed Match Fee applicable to executions during continuous trading also applies to a non-displayed order that removes liquidity from a displayed resting order as counterparty, in the context of the Opening Process (which is a bulk execution of multiple buy and sell orders at a single price), the Exchange does not believe that it is appropriate to provide the Displayed Match Fee to non-displayed orders that execute in the Opening Process because there are no explicit counterparties in a bulk execution. Similarly, the Exchange does not believe that the exception to the Non-Displayed Match Fee for displayable orders that take resting interest upon entry is applicable in the context of the Opening Process since such orders are not able to remove resting interest on entry in the Opening Process, because they are either queued on the Cross Book and not displayed, or resting displayed on the Continuous Order Book.[16] Furthermore, as noted above the Opening Process is a bulk execution of multiple buy and sell orders at a single price, and thus there are no counterparties to distinguish between liquidity provider and liquidity takers, or their respective display status.[17]

IEX also believes that it is appropriate, reasonable, and consistent with the Act not to charge a fee for the execution of an order that was displayed on the Continuous Order Book during the Pre-Market Session prior to the Opening Process. As with the existing fee structure for execution of transactions including displayed liquidity, this fee structure is designed to incentivize Members to send IEX aggressively priced displayable orders, thereby contributing to price discovery, and consistent with the overall goal of enhancing market quality. IEX believes that, as with the existing Displayed Match Fee, not charging a fee for such a previously displayed order is equitable and not unfairly discriminatory because it is designed to facilitate execution of, and enhance trading opportunities for, displayable orders, thereby further incentivizing entry of displayed orders.

Further, the Exchange notes that the proposed fees are nondiscriminatory because they will apply uniformly to all Members and all Members have the opportunity to submit both displayed and non-displayed orders for execution in the Opening Process. In addition, the Exchange believes that the proposed fees for the Opening Process are appropriate, reasonable, and consistent with the Act, because such fees are within the range of transaction charged by other exchanges for the opening process for non-listed securities.[18] Further, although orders that execute in the Opening Process may be subject to different fees, for the reasons discussed in the Purpose section, the Exchange notes that other exchanges also charge differential pricing for orders that execute in their opening process.[19]

Additionally, the Exchange believes that its proposed Fee Code X, to be provided on execution reports, will provide transparency and predictability to Members as to the applicable transaction fees, because Members can determine which Fee Code is applicable to the execution of a particular order in the Opening Process.

In conclusion, the Exchange also submits that its proposed fee structure satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act for the reasons discussed above in that it does not permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest. Further, IEX believes that its proposal does not raise any new or novel issues that have not previously been considered by the Commission in connection with the existing IEX fees or the fees of other national securities exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] *See* Securities Exchange Act Release No. 78550 (August 11, 2016), 81 FR 54873 (August 17, 2016) (SR–IEX–2016–09).

[15] The Exchange notes that to the extent such orders are unexecuted after the Opening Process, the Exchange would display such orders consistent with their display instructions.

[16] The Exchange notes that it is possible for a displayed order to remove non-displayed liquidity in the Pre-Market Session; however, such execution would not be part of the Opening Process, and would be subject to the exchanges existing fee schedule.

[17] *See* Rule 11.231(a).

[18] For example, the Nasdaq Stock Market charges fees ranging from $0.0015–$0.00085 for orders executed in the Nasdaq Opening Cross, including capping such fees at $35,000 per month for certain members, which includes crosses for listed and non-listed securities (*see, https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*). Similarly, Bats EDGX Exchange charges $0.0010 for orders executed in the EDGX opening or re-opening process for non-listed securities priced above $1.00 (*see, http://www.bats.com/us/equities/membership/fee_schedule/edgx/*).

[19] *Id.*

To the contrary, the Exchange believes that the proposed pricing structure will increase competition and hopefully draw additional volume to the Exchange for the Opening Process. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited, and does not believe that such fees would burden competition of Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed in some circumstances, these different fees are not based on the type of Member entering the orders that execute in the Opening Process but on the type of order entered and all Members can submit any type of order. Further, the proposed fees are intended to encourage market participants to bring increased volume to the Exchange, which benefits all market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [20] of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [21] of the Act to determine whether the proposed rule change should be approved or disapproved.

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

[21] 15 U.S.C. 78s(b)(2)(B).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2017–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2017–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2017–28, and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18796 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81500; File Nos. SR–BatsBYX–2017–13; SR–BatsBZX–2017–39; SR–BatsEDGA–2017–14; SR–BatsEDGX–2017–24; SR–BOX–2017–19; SR–CBOE–2017–043; SR–IEX–2017–21; SR–ISE–2017–52; SR–MRX–2017–08; SR–MIAX–2017–24; SR–NASDAQ–2017–059; SR–BX–2017–029; SR–GEMX–2017–24; SR–PHLX–2017–47; SR–NYSE–2017–24; SR–NYSEArca–2017–60; SR–NYSEMKT–2017–31]

Self-Regulatory Organizations; Bats BYX Exchange Inc.; Bats BZX Exchange, Inc.; Bats EDGA Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; Chicago Board Options Exchange, Incorporated; Investors Exchange LLC; Nasdaq ISE, LLC; Nasdaq MRX, LLC; Miami International Securities Exchange, LLC; The NASDAQ Stock Market LLC; NASDAQ BX, Inc.; Nasdaq GEMX, LLC; NASDAQ PHLX LLC; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT LLC; Order Approving Proposed Rule Changes, as Modified by Amendments, To Adopt a Consolidated Audit Trail Fee Dispute Resolution Process

August 30, 2017.

I. Introduction

On May 16, 2017,[1] May 23, 2017,[2] May 25, 2017,[3] June 6, 2017,[4] June 8, 2017 [5] and June 9, 2017,[6] Bats BYX Exchange, Inc. (''Bats BYX''), Bats BZX Exchange, Inc. (''Bats BZX''), Bats EDGA Exchange, Inc. (''Bats EDGA''), Bats EDGX Exchange, Inc. (''Bats EDGX''), BOX Options Exchange LLC (''BOX''),

[1] New York Stock Exchange, LLC, NYSE Arca, Inc., NYSE MKT LLC, and Miami International Securities Exchange LLC filed their proposed rule changes on May 16, 2017.

[2] Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc. and Chicago Board Options Exchange, Incorporated filed their proposed rule changes on May 23, 2017.

[3] BOX Options Exchange LLC filed its proposed rule change on May 25, 2017.

[4] Investors Exchange LLC filed its proposed rule change on June 6, 2017.

[5] The NASDAQ Stock Market LLC and NASDAQ PHLX LLC filed their proposed rule changes on June 8, 2017.

[6] NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC filed their proposed rule changes on June 9, 2017.

Chicago Board Options Exchange, Incorporated (''CBOE''), Investors Exchange LLC (''IEX''), Nasdaq ISE, LLC (''ISE''), Nasdaq MRX, LLC (''MRX''), Miami International Securities Exchange, LLC (''MIAX''), The NASDAQ Stock Market LLC (''Nasdaq''), NASDAQ BX, Inc. (''BX''), Nasdaq GEMX, LLC (''GEMX''), NASDAQ PHLX LLC (''Phlx''), New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''NYSE Arca'') and NYSE MKT LLC (''NYSE MKT'') (collectively, the ''Participants'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[7] and Rule 19b–4 thereunder,[8] proposed rule changes to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. The proposed rule changes submitted by NYSE, NYSE Arca and NYSE MKT were published for comment in the **Federal Register** on June 1, 2017.[9] The proposed rule changes submitted by MIAX, Bats BYX, Bats BZX, Bats EDGA, Bats EDGX, BOX and CBOE were published for comment in the **Federal Register** on June 7, 2017.[10] The proposed rule change submitted by IEX was published for comment in the **Federal Register** on June 20, 2017.[11] The proposed rule change submitted by Nasdaq was published for comment in the **Federal Register** on June 22, 2017.[12] The proposed rule changes submitted by Phlx, BX, GEMX, ISE and MRX were published for comment in the **Federal Register** on June 23, 2017.[13] Pursuant to Section 19(b)(2) of the Act,[14] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the proposed rule changes.[15] The Commission received no comments in response to the proposed rule changes. On August 23, 2017,[16] August 24, 2017[17] and August 25, 2017,[18] the Participants filed Amendments to the proposed rule change.[19] This order approves the proposed rule changes, as modified by the Amendments.[20]

II. Description of the Proposed Rule Changes, as Modified by the Amendments

The Participants, along with C2 Options Exchange, Inc., Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., MIAX PEARL, LLC, and NYSE National, Inc., filed with the Commission, pursuant to Section 11A of the Act[21] and Rule 608 of Regulation NMS thereunder,[22] the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[23] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (''Company''), of which each Participant is a member, to operate the CAT.

Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has the discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants

[7] 15 U.S.C. 78s(b)(1).

[8] 17 CFR 240.19b–4.

[9] *See* Securities Exchange Act Release Nos. 80780 (May 26, 2017), 82 FR 25382; 80781 (May 26, 2017), 82 FR 25369; 80782 (May 26, 2017), 82 FR 25379.

[10] *See* Securities Exchange Act Release Nos. 80837 (June 1, 2017), 82 FR 26526; 80836 (June 1, 2017), 82 FR 26539; 80834 (June 1, 2017), 82 FR 26542; 80835 (June 1, 2017), 82 FR 26549; 80833 (June 1, 2017), 82 FR 26529; 80831 (June 1, 2017), 82 FR 26536; and 80832 (June 1, 2017), 82 FR 26523.

[11] *See* Securities Exchange Act Release No. 80936 (June 15, 2017), 82 FR 28153.

[12] *See* Securities Exchange Act Release No. 80952 (June 16, 2017), 82 FR 28540 (''Notice'').

[13] *See* Securities Exchange Act Release Nos. 80967 (June 19, 2017), 82 FR 28719; 80968 (June 19, 2017), 82 FR 28705; 80970 (June 19, 2017), 82 FR 28708; 80971 (June 19, 2017), 82 FR 28698; 80966 (June 19, 2017), 82 FR 28702.

[14] 15 U.S.C. 78s(b)(2).

[15] *See* Securities Exchange Act Release No. 81110 (July 10, 2017), 82 FR 32598 (July 14, 2017); 81112 (July 10, 2017), 82 FR 32592 (July 14, 2017); 81113 (July 10, 2017), 82 FR 32596 (July 14, 2017); 81156 (July 18, 2017), 82 FR 34337 (July 24, 2017); 81157 (July 18, 2017), 82 FR 34338 (July 24, 2017); 81158 (July 18, 2017), 82 FR 34339 (July 24, 2017); 81159 (July 18, 2017), 82 FR 34338 (July 24, 2017); 81161 (July 18, 2017), 82 FR 34337 (July 24, 2017); 81162 (July 18, 2017), 82 FR 34336 (July 24, 2017); 81164 (July 18, 2017), 82 FR 34346 (July 24, 2017); 81165 (July 18, 2017), 82 FR 34345 (July 24, 2017); 81166 (July 18, 2017), 82 FR 34345 (July 24, 2017); 81167 (July 18, 2017), 82 FR 34337 (July 24, 2017); 81178 (July 20, 2017), 82 FR 34715 (July 26, 2017); 81179 (July 20, 2017), 82 FR 34716 (July 26, 2017); 81180 (July 20, 2017), 82 FR 34728 (July 26, 2017); and 81181 (July 20, 2017), 82 FR 34727 (July 26, 2017).

[16] NYSE, NYSE Arca and NYSE MKT filed Amendment No. 1 to their proposed rule changes on August 23, 2017. Amendment No. 1 is available on the Commission's Web site for NYSE, NYSE Arca, and NYSE MKT, respectively, at: *https://www.sec.gov/comments/sr-nyse-2017-24/nyse201724-2241267-160850.pdf; https://www.sec.gov/comments/sr-nysearca-2017-60/nysearca201760-2241265-160861.pdf;* and *https://www.sec.gov/comments/sr-nysemkt-2017-31/nysemkt201731-2241266-160862.pdf.*

[17] Bats BYX, Bats BZX, Bats EDGA, Bats EDGX, CBOE and BOX filed Amendment No. 1 to their proposed rule changes on August 24, 2017. Amendment No. 1 is available on the Commission's Web site for Bats BYX, Bats BZX, Bats EDGA, Bats EDGX, CBOE and BOX, respectively, at: *https://www.sec.gov/comments/sr-batsbyx-2017-13/batsbyx201713-2253932-160942.pdf; https://www.sec.gov/comments/sr-batsbzx-2017-39/batsbzx201739-2251466-160921.pdf; https://www.sec.gov/comments/sr-batsedga-2017-14/batsedga201714-2251458-160938.pdf; https://www.sec.gov/comments/sr-batsedgx-2017-24/batsedgx201724-2251462-160919.pdf; https://www.sec.gov/comments/sr-cboe-2017-043/cboe2017043-2251469-160922.pdf;* and *https://www.sec.gov/comments/sr-box-2017-19/box201719-2250011-160918.pdf.* MIAX filed Amendment No. 1 on August 22, 2017, but withdrew it on August 24, 2017. MIAX then filed Amendment No. 2 on August 24, 2017. Amendment No. 2 for MIAX is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-miax-2017-24/miax201724-2243335-160869.pdf.*

[18] IEX, Phlx, Nasdaq, BX, GEMX, ISE and MRX filed Amendment No. 1 to their proposed rule changes on August 25, 2017. Amendment No. 1 is available on the Commission's Web site for IEX, Phlx, Nasdaq, BX, GEMX, ISE and MRX, respectively, at: *https://www.sec.gov/comments/sr-iex-2017-21/iex201721-2243778-160880.pdf; https://www.sec.gov/comments/sr-phlx-2017-47/phlx201747-2257687-160924.pdf; https://www.sec.gov/comments/sr-nasdaq-2017-059/nasdaq2017059-2257689-160925.pdf; https://www.sec.gov/comments/sr-bx-2017-029/bx2017029-2251461-160940.pdf; https://www.sec.gov/comments/sr-gemx-2017-24/gemx201724-2244452-160897.pdf; https://www.sec.gov/comments/sr-ise-2017-52/ise201752-2244293-160891.pdf;* and *https://www.sec.gov/comments/sr-mrx-2017-08/mrx201708-2251467-160941.pdf.*

[19] The Amendments amended the original filings to make technical changes to the proposed rule changes. Specifically, each Participant amended the proposed rule text to remove references to proposed ''Consolidated Audit Trail Funding Fees,'' as such fees are currently suspended, and replaced such term with the phrase ''any fees contemplated by the CAT NMS Plan and imposed on Industry Members pursuant to Exchange Rules.'' *See infra* note 24. Each Participant also removed references to ''Consolidated Audit Trail Funding Fees'' from paragraphs (a)(1), (b) and (c)(1) of the proposed rule text. In addition, in connection with the merger of NYSE Arca Equities with and into NYSE Arca, Amendment No. 1 for NYSE Arca also combines NYSE Arca Equities Rule 6.6900 and NYSE Arca Rule 11.6900 into a single rule NYSE Rule 11.6900. *See* Securities Exchange Act Release No. 80781 (May 26, 2017), 82 FR 25369. *See also* Securities Exchange Act Release No. 81419 (August 17, 2017), 82 FR 40044 (August 23, 2017). The Amendments are not subject to notice and comment because they are technical amendments that do not materially alter the substance of the proposed rule changes or raise any novel regulatory issues.

[20] The Commission notes that for purposes of this Order, unless otherwise specified, capitalized terms used in this Order are defined as set forth in the proposals, as modified by the Amendments, or in the CAT NMS Plan. *See supra* notes 16–18; *see also infra* note 23.

[21] 15 U.S.C. 78k–1.

[22] 17 CFR 242.608.

[23] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015. The Plan was published for comment in the **Federal Register** on May 17, 2016, and approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release Nos. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016); 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016).

and Industry Members will pay (''CAT Fees'').[24] Section 11.5 of the CAT NMS Plan requires the Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or a designated Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or a designated Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the Commission pursuant to Rule 608 [25] or in any other appropriate forum. The Participants filed the proposed rule changes to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.

Fee Dispute Resolution

The proposals state that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, pursuant to the Fee Dispute Resolution Procedures adopted by the Operating Committee pursuant to the CAT NMS Plan.[26] The proposals further indicate that decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the Commission or in any other appropriate forum.[27]

Under the Fee Dispute Resolution Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees.[28] The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought.[29] In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified under the Fee Dispute Resolution Procedures.[30]

The Participants state that the Company will refer applications for hearing and review promptly to the Fee Review Subcommittee designated by the Operating Committee with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Fee Dispute Resolution Procedures.[31] The proposals note that the Fee Review Subcommittee will keep a record of the proceedings.[32]

The proposals further specify that the Fee Review Subcommittee will hold hearings promptly and will set a hearing date.[33] Under the proposed rule changes, the parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the hearing, and each party will have the right to inspect and copy the other party's materials prior to the hearing.[34]

The Participants state that the parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant.[35] The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings under the proposed rule changes.[36]

The proposals further indicate that the Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing.[37] Each of the parties will be permitted, under the proposed rule changes, to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee.[38] In addition, the Fee Review Subcommittee will have the right to question all parties and witnesses to the proceeding.[39] The proposals require the Fee Review Subcommittee to keep a record of the hearing, to set forth its decision in writing, and to send the written decision to the parties to the proceeding.[40] Such decisions must contain the reasons supporting the conclusions of the Fee Review Subcommittee under the proposed rule changes.[41]

The Participants state that the decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision.[42] The applicant's petition for review must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections.[43] According to the proposed rule changes, any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded.[44] The proposed rule changes allow parties to petition to submit a written argument to the Operating Committee and to request an opportunity to make an oral argument before the Operating

[24] Section 11.1(b) of the CAT NMS Plan. The Commission notes that the Participants filed proposed rule changes to adopt fees to be charged to Industry Members, including Industry Members that are Execution Venues. *See* Securities Exchange Act Release Nos. 80675 (May 15, 2017), 82 FR 23100 (May 19, 2017) (SR–MIAX–2017–18); 80697 (May 16, 2017), 82 FR 23398 (May 22, 2017) (SR–BX–2017–023); 80692 (May 16, 2017), 82 FR 23325 (May 22, 2017) (SR–IEX–2017–16); 80696 (May 16, 2017), 82 FR 23439 (May 22, 2017) (SR–NASDAQ–2017–046); 80693 (May 16, 2017), 82 FR 23363 (May 22, 2017) (SR–NYSE–2017–22); 80698 (May 16, 2017), 82 FR 23457 (May 22, 2017) (SR–NYSEArca–2017–52); 80694 (May 16, 2017), 82 FR 23416 (May 22, 2017) (SR–NYSEMKT–2017–26); 80721 (May 18, 2017), 82 FR 23864 (May 24, 2017) (SR–BOX–2017–16); 80713 (May 18, 2017), 82 FR 23956 (May 24, 2017) (SR–GEMX–2017–17); 80715 (May 18, 2017), 82 FR 23895 (May 24, 2017) (SR–ISE–2017–45); 80726 (May 18, 2017), 82 FR 23915 (May 24, 2017) (SR–MRX–2017–04); 80725 (May 18, 2017), 82 FR 23935 (May 24, 2017) (SR–PHLX–2017–37); 80785 (May 26, 2017), 82 FR 25404 (June 1, 2017) (SR–CBOE–2017–040); 80784 (May 26, 2017), 82 FR 25448 (June 1, 2017) (SR–BatsEDGA–2017–13); 80809 (May 30, 2017), 82 FR 25837 (June 5, 2017) (SR–BatsBYX–2017–11); 80822 (May 31, 2017), 82 FR 26148 (June 6, 2017) (SR–BatsBZX–2017–38); and 80821 (May 31, 2017), 82 FR 26177 (June 6, 2017) (SR-BatsEDGX–2017–22). On June 30, 2017, the Commission temporarily suspended the proposed rule changes and instituted proceedings to determine whether to approve or disapprove the proposed rule changes. *See* Securities Exchange Act Release No. 81067, 82 FR 31656 (July 7, 2017).

[25] 17 CFR 242.608.

[26] *See, e.g.,* Notice, *supra* note 12, at 28541–42. The Participants also represent that the Fee Dispute Resolution Procedures were modeled after the adverse action procedures adopted by various exchanges and that such Procedures will be posted on the CAT NMS Plan Web site (*www.catnmsplan.com*). *See, e.g., id.* at 28542.

[27] *See, e.g., id.* at 28541.

[28] *See, e.g., id.* at 28542.

[29] *See, e.g., id.*

[30] *See, e.g., id.*

[31] *See, e.g., id.* The Participants further indicate that the members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. *See, e.g., id.*

[32] *See, e.g., id.*

[33] *See, e.g., id.*

[34] *See, e.g., id.*

[35] *See, e.g., id.*

[36] *See, e.g., id.*

[37] *See, e.g., id.* The proposed rule changes note, however, that the formal rules of evidence will not apply.

[38] *See, e.g., id.*

[39] *See, e.g., id.*

[40] *See, e.g., id.*

[41] *See, e.g., id.*

[42] *See, e.g., id.*

[43] *See, e.g., id.*

[44] *See, e.g., id.*

Committee.[45] The Operating Committee will then have sole discretion to grant or deny either request.[46]

Under the proposed rule changes, any review conducted by the Operating Committee will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order.[47] Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee.[48] The Participants state that the decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding, and will be final.[49]

A final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company.[50] The proposed rule changes indicate, however, that the Operating Committee may extend the 90-day time limit at its discretion.[51] The Fee Dispute Resolution Procedures also state that any time limits for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee.[52]

Finally, the Participants state that an Industry Member that files a written application with the Company disputing CAT Fees in accordance with the Fee Dispute Resolution Procedures is not required to pay such CAT Fees until the dispute is resolved in accordance with the Procedures, including any review by the Commission or in any other appropriate forum.[53] The Participants state that, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.[54]

III. Discussion and Commission Findings

After carefully considering the proposed rule changes, the Commission finds that the proposals, as modified by the Amendments, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.[55] Specifically, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5)[56] of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the Commission finds that the proposed rule changes are consistent with Section 6(b)(8)[57] of the Act, which requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate.

The Commission believes that the proposals are consistent with Section 6(b)[58] of the Act in general, and furthers the objectives of Section 6(b)(5)[59] of the Act[60] in particular, because they are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by providing a uniform mechanism by which Industry Members may dispute CAT Fees and receive a timely review of such disputes. The Commission notes that the Fee Dispute Resolution Procedures provide for a hearing before the Fee Review Subcommittee, and if the Industry Member is not satisfied with the decision of the Fee Review Subcommittee, it may request a review of the decision by the Operating Committee. Further, the proposals provide that, although the decisions of the Operating Committee or Fee Review Subcommittee are binding on an Industry Member, the Industry Member may seek redress from the Commission or in any other appropriate forum.

The Commission also notes that the proposals implement Section 11.5 of the CAT NMS Plan.[61] Specifically, Section 11.5 states that the Participants will adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to Article XI of the CAT NMS Plan be determined by the Operating Committee or a designated Subcommittee. Section 11.5 further provides that such fee disputes will be determined by the Operating Committee or a designated Subcommittee, and that decisions on such matters will be binding on Industry Members without prejudice to the rights of any Industry Member to seek redress from the Commission pursuant to Rule 608 of Regulation NMS or in any other appropriate forum.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (SR–BatsBYX–2017–13; SR–BatsBZX–2017–39; SR–BatsEDGA–2017–14; SR–BatsEDGX–2017–24; SR–BOX–2017–19; SR–CBOE–2017–043; SR–IEX–2017–21; SR–ISE–2017–52; SR–MRX–2017–08; SR–MIAX–2017–24; SR–NASDAQ–2017–059; SR–BX–2017–029; SR–GEMX–2017–24; SR–PHLX–2017–47; SR–NYSE–2017–24; SR–NYSEArca–2017–60; SR–NYSEMKT–2017–31), as modified by the Amendments, are approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[62]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18794 Filed 9–5–17; 8:45 am]

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[45] *See, e.g., id.*

[46] *See, e.g., id.*

[47] *See, e.g., id.*

[48] *See, e.g., id.*

[49] *See, e.g., id.*

[50] *See, e.g., id.*

[51] *See, e.g., id.*

[52] *See, e.g., id.*

[53] *See, e.g., id.* The Participants clarify that the Industry Member may only withhold any invoiced CAT Fees that the Industry Member has disputed; under the proposed rule changes, the Industry Member must pay any invoiced CAT Fees that are not disputed when such fees are due, as set forth in the invoice. *See, e.g., id.*

[54] *See, e.g., id.* at 28542–43.

[55] In approving these proposed rule changes, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[56] 15 U.S.C. 78f(b)(5).

[57] 15 U.S.C. 78f(b)(8).

[58] 15 U.S.C. 78f(b).

[59] 15 U.S.C. 78f(b)(5).

[60] 15 U.S.C. 78f(b)(5).

[61] The Commission previously approved the CAT NMS Plan. *See supra* note 23.

[62] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81505; File No. SR–NYSEArca–2017–90]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Hartford Municipal Opportunities ETF Under NYSE Arca Rule 8.600–E

August 30, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 17, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Hartford Municipal Opportunities ETF under NYSE Arca Rule 8.600–E (''Managed Fund Shares''). The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Hartford Municipal Opportunities ETF (''Fund'') under NYSE Arca Rule 8.600–E,[4] which governs the listing and trading of Managed Fund Shares.[5] The Shares will be offered by the Hartford Funds Exchange-Traded Trust (the ''Trust''), which is registered with the Commission as an open-end management investment company.[6] The Fund is a series of the Trust.

Hartford Funds Management Company, LLC (''HFMC'' or ''Manager'') will be the investment manager to the Fund. ALPS Distributors, Inc. (''ALPS'' or the ''Distributor'') will be the principal underwriter to the Fund. HFMC is an indirect subsidiary of The Hartford Financial Services Group, Inc. Wellington Management Company LLP (''Wellington Management'' or ''Sub-Adviser'') will be the sub-adviser to the Fund and will perform the daily investment of the assets for the Fund.

Commentary .06 to Rule 8.600–E provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[7] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio. Neither the Manager nor Sub-Adviser is a registered broker-dealer but each is affiliated with a broker-dealer. The Manager and Sub-Adviser each has implemented a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the Fund's portfolio. In the event (a) the Manager or Sub-Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, the applicable adviser or sub-adviser will implement and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Securities and Exchange Commission (''Commission'') has approved for Exchange listing and trading shares of actively managed funds that principally hold municipal bonds. *See, e.g.,* Securities Exchange Act Release Nos. 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca–2009–79) (order approving listing and trading of shares of the PIMCO Short-Term Municipal Bond Strategy Fund and PIMCO Intermediate Municipal Bond Strategy Fund); 79293 (November 10, 2016), 81 FR 81189 (November 17, 2016) (SR–NYSEArca–2016–107) (order approving listing and trading of shares of Cumberland Municipal Bond ETF under Rule 8.600); 80865 (June 6, 2017), 82 FR 26970 (June 12, 2017) (order approving listing and trading of shares of the Franklin Liberty Intermediate Municipal Opportunities ETF and Franklin Liberty Municipal Bond ETF under NYSE Arca Equities Rule 8.600); 80885 (June 8, 2017), 82 FR 27302 (June 14, 2017) (order approving listing and trading of shares of the IQ Municipal Insured ETF, IQ Municipal Short Duration ETF, and IQ Municipal Intermediate ETF Under NYSE Arca Equities Rule 8.600. The Commission also has approved listing and trading on the Exchange of shares of the SPDR Nuveen S&P High Yield Municipal Bond Fund under Commentary .02 of NYSE Arca Equities Rule 5.2(j)(3). *See* Securities Exchange Act Release No.63881 (February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120).

[5] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Rule 5.2–E(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Trust is registered under the 1940 Act. On June 26, 2017, the Trust filed with the Commission its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–215165 and 811–23222) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 32454 (January 27, 2017) (File No. 812–812–13828–01) (''Exemptive Order'').

[7] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

maintain a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Hartford Municipal Opportunities ETF

According to the Registration Statement, the Fund will seek to provide current income that is generally exempt from federal income taxes, and long-term total return. The Fund will seek to achieve its investment objective by investing in investment grade and non-investment grade municipal securities that the Sub-Adviser considers to be attractive from a yield perspective while considering total return. Under normal market conditions,[8] at least 80% of the Fund's net assets must be invested in municipal securities (''Municipal Securities'').[9] The Fund will generally hold a diversified portfolio of investments across states and sectors, although the Fund is not required to invest in all states and sectors at all times.

According to the Registration Statement, the Fund may invest in the following Municipal Securities:

- General obligation bonds
- Revenue (or limited obligation) bonds
- Private activity (or industrial development) bonds
- Municipal notes
- Municipal lease obligations
- Zero-coupon Municipal Securities

The Sub-Adviser will combine top-down strategy with bottom-up fundamental research and comprehensive risk management within the portfolio construction process. Bottom-up, internally generated, fundamental research attempts to identify relative value among sectors, within sectors, and between individual securities.

Other Investments

While the Fund, under normal market conditions, will invest at least 80% of its net assets in Municipal Securities as described above, the Fund may, under normal market conditions, invest up to 20% of its net assets in the aggregate in the securities and financial instruments described below.

The Fund may invest in exchange-traded fund (''ETFs'') [10] and exchange-traded notes. (''ETNs'').[11]

The Fund may invest in securities issued or guaranteed as to principal or interest by the U.S. Government, its agencies or instrumentalities.

The Fund may invest some or all of its assets in cash, high quality money market instruments,[12] U.S. Government securities and shares of money market investment companies for temporary defensive purposes in response to adverse market, economic or political conditions when its sub-adviser, subject to the overall supervision of HFMC, deems it appropriate.

The Fund may invest in non-agency asset-backed securities.

The Fund may invest in registered money market funds that invest in money market instruments, as permitted by regulations adopted under the 1940 Act.

The Fund may invest in registered money market funds that invest in money market instruments and other investment company securities as permitted under the 1940 Act.

The Fund may enter into repurchase and reverse repurchase agreements.

The Fund may invest in securities that are not registered under the 1933 Act (''restricted securities'').

The Fund may invest in zero-coupon securities (in addition to zero-coupon Municipal Securities).

The Fund may invest in variable rate bonds known as ''inverse floaters'' which pay interest at rates that bear an inverse relationship to changes in short-term market interest rates.

The Fund may invest in municipal inverse floaters, which are a type of inverse floater in which a municipal bond is deposited with a special purpose vehicle (SPV), which issues, in return, the municipal inverse floater (which is comprised of a residual interest in the cash flows and assets of the SPV) plus proceeds from the issuance by the SPV of floating rate certificates to third parties.

The Fund may invest in derivative instruments, as described below. The Fund may use derivative instruments to manage portfolio risk, to replicate securities the Fund could buy that are not currently available in the market or for other investment purposes.

The Fund may invest in interest rate futures contracts.

The Fund may invest in interest rate swaps, caps, floors and collars.

Disclosure of Portfolio Holdings

On each day the NYSE Arca is open (a ''Business Day''), before commencement of trading in Shares on the Exchange in the Exchange's Core Trading Session, HFMC will disclose the Fund's iNAV Basket.[13] Additionally, on each Business Day, before commencement of trading in Shares on the Exchange, the Fund will disclose on its Web site the identities and quantities of the Fund's portfolio holdings that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

The NAV per Share will be determined for the Fund's Shares as of the close of regular trading on the New York Stock Exchange (the ''NYSE'') (normally 4:00 p.m. Eastern Time) (the ''NYSE Close'') on each day that the Exchange is open (''Valuation Date''). The net asset value for the Shares will be determined by dividing the value of the Fund's net assets attributable to the Shares by the number of Shares outstanding.

For purposes of calculating the NAV, portfolio securities and other assets held in the Fund's portfolio for which market prices are readily available are valued at market value. Market value is generally determined on the basis of last reported trade prices or official close price. If no trades were reported, market value is based on prices obtained from a quotation reporting system, established market makers, or independent pricing services. If market prices are not readily available or are deemed unreliable, the Fund will use the fair value of the security or other instrument as determined in good faith under policies and procedures established by and under the supervision of the Board of Trustees of the Trust. Market prices are considered not readily available where there is an absence of current or reliable market-based data (*e.g.,* trade information or broker quotes), including where events occur after the close of the

[8] The term ''normal market conditions'' is defined in NYSE Arca Rule 8.600–E(c)(5).

[9] Municipal securities primarily include debt obligations are issued by or on behalf of the District of Columbia, states, territories, commonwealths and possessions of the United States and their political subdivisions (*e.g.,* cities, towns, counties, school districts, authorities and commissions) and agencies, authorities and instrumentalities.

[10] For purposes of this filing, the term ''ETFs'' includes Investment Company Units (as described in NYSE Arca Rule 5.2–E(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Rule 8.100–E); and Managed Fund Shares (as described in NYSE Arca Rule 8.600–E). All ETFs will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, −2X, 3X or −3X) ETFs.

[11] ETNs are securities such as those listed on the Exchange under NYSE Arca Rule 5.2–E(j)(6).

[12] Money market instruments include the following: (1) Banker's acceptances; (2) short-term corporate obligations, including commercial paper, notes, and bonds; (3) other short-term debt obligations; and (4) obligations of U.S. banks.

[13] An iNAV will be based on the current market value of the Fund's portfolio holdings that will form the basis for the Fund's calculation of NAV at the end of the Business Day, as disclosed on the Fund's Web site prior to that Business Day's commencement of trading (the ''iNAV Basket'').

relevant market, but prior to the NYSE Close that materially affect the values of the Fund's portfolio holdings or assets. Prices of foreign equities that are principally traded on certain foreign markets are adjusted daily pursuant to a fair value pricing service approved by the Trust's Board of Trustees in order to reflect an adjustment for the factors occurring after the close of certain foreign markets but before the NYSE Close.

Fixed income investments and non-exchange traded derivatives held by the Fund will normally be valued on the basis of quotes obtained from brokers and dealers or independent pricing services in accordance with procedures established by the Trust's Board of Trustees. Prices obtained from independent pricing services use information provided by market makers or estimates of market values obtained from yield data relating to investments or securities with similar characteristics. Senior floating rate interests generally trade in over-the-counter (''OTC'') markets and are priced through an independent pricing service utilizing independent market quotations from loan dealers or financial institutions. Generally, the Fund may use fair valuation in regard to fixed income positions when the Fund holds defaulted or distressed investments or investments in a company in which a reorganization is pending. Short term investments maturing in 60 days or less are generally valued at amortized cost if their original term to maturity was 60 days or less, or by amortizing their value on the 61st day prior to maturity, if the original term exceeded 60 days.

Investments valued in currencies other than U.S. dollars will be converted to U.S. dollars using exchange rates obtained from independent pricing services for calculation of the NAV.

Investments in open-end mutual funds are valued at the respective NAV of each open-end mutual fund on the Valuation Date.

Financial instruments for which prices are not available from an independent pricing service may be valued using market quotations obtained from one or more dealers that make markets in the respective financial instrument in accordance with procedures established by the Trust's Board of Trustees.

Creation and Redemption of Shares

According to the Registration Statement, the Trust will issue and sell Shares of the Fund only in Creation Units at the NAV next determined after receipt of an order in proper form on any Business Day. The number of Shares of the Fund that will constitute a Creation Unit is 50,000. The size of a Creation Unit is subject to change.

Creation of Shares

The consideration for purchase of Creation Units will generally consist of ''Deposit Securities'' and the ''Cash Component'', which will generally correspond pro rata, to the extent practicable, to the Fund's securities, or, as permitted or required by the Fund, of cash. Together, the Deposit Securities and Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. Creation Units of Shares of the Fund may be issued partially for cash.

The Transfer Agent, through the NSCC, will make available on each Business Day, prior to the Core Trading Session (subject to amendments) on the Exchange (currently 9:30 a.m., Eastern time), the identity and the required number of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information at the end of the previous Business Day).

To be eligible to place orders with the Distributor and to create a Creation Unit of the Fund, an entity must be: (i) A ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC (the ''Clearing Process''); or (ii) a participant of DTC (''DTC Participant'') and must have executed an agreement with the Distributor (and accepted by the Transfer Agent), with respect to creations and redemptions of Creation Units (''Participant Agreement'') (discussed below). A Participating Party or DTC Participant who has executed a Participant Agreement is referred to as an ''Authorized Participant.''

Except as described below, and in all cases subject to the terms of the applicable Participant Agreement, all orders to create Creation Units of the Fund must be received by the Transfer Agent no later than the closing time of the Exchange's Core Trading Session (''Order Cutoff Time'') (ordinarily 4:00 p.m., Eastern time) in each case on the date such order is placed for creation of Creation Units to be effected based on the NAV of shares of the Fund as next determined after receipt of an order in proper form. Orders requesting substitution of a ''cash-in-lieu'' amount or a cash creation, must be received by the Transfer Agent no later than 3:00 p.m., Eastern time. The date on which an order to create Creation Units (or an order to redeem Creation Units, as discussed below) is placed is referred to as the ''Transmittal Date''.

Fund Deposits created through the Clearing Process, if available, must be delivered through a Participating Party that has executed a Participant Agreement.

Fund Deposits created outside the Clearing Process must be delivered through a DTC Participant that has executed a Participant Agreement.

Redemption of Shares

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form on a Business Day and only through a Participating Party or DTC Participant who has executed a Participant Agreement.

With respect to the Fund, the Transfer Agent, through the NSCC, makes available immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time) on each Business Day, the identity of the Fund's securities and/or an amount of cash that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form (as described below) on that day. All orders are subject to acceptance by the Distributor. The Fund's securities received on redemption will generally correspond pro rata, to the extent practicable, to the Fund's securities. The Fund's securities received on redemption (''Fund Securities'') may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash only redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit will generally consist of Fund Securities—as announced on the Business Day of the request for a redemption order received in proper form—plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and variable fees described below. Notwithstanding the foregoing, the Trust will substitute a ''cash-in-lieu'' amount to replace any Fund Security that is a non-deliverable instrument.

Orders to redeem Creation Units of the Fund through the Clearing Process, if available, must be delivered through a Participating Party that has executed the Participant Agreement.

Orders to redeem Creation Units of the Fund outside the Clearing Process must be delivered through a DTC

Participant that has executed the Participant Agreement.

Availability of Information

The Fund will disclose on the Fund's Web site (*www.hartfordfunds.com*) at the start of each business day the identities and quantities of the securities and other assets held by the Fund that will form the basis of the Fund's calculation of its net asset value (''NAV'') on that business day. The portfolio holdings so disclosed will be based on information as of the close of business on the prior business day and/or trades that have been completed prior to the opening of business on that business day and that are expected to settle on the business day.

The Web site for the Fund will contain the following information, on a per-Share basis, for the Fund: (1) The prior business day's NAV; (2) the reported midpoint of the bid-ask spread at the time of NAV calculation (the ''Bid-Ask Price''); (3) a calculation of the premium or discount of the Bid-Ask Price against such NAV; and (4) data in chart format displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters (or for the life of the Fund if, shorter). In addition, on each business day, before the commencement of trading in Shares on the NYSE Arca, the Fund will disclose on its Web site the identities and quantities of the portfolio securities and other assets held by the Fund that will form the basis for the calculation of NAV at the end of the business day.

The Fund's portfolio holdings will be disclosed on the Fund's Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. On a daily basis, the Fund will disclose the information required under NYSE Arca Rule 8.600–E(c)(2) to the extent applicable. The Web site information will be publicly available at no charge.

The approximate value of the Fund's investments on a per-Share basis, the iNAV, will be disseminated every 15 seconds during the Exchange Core Trading Session (ordinarily 9:30 a.m. to 4:00 p.m., Eastern Time).

Investors can also obtain the Fund's Statement of Additional Information (''SAI''), shareholder reports, Form N–CSR and Form N–SAR, filed twice a year. The Fund's SAI and shareholder reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares, ETFs and ETNs will be available via the Consolidated Tape Association (''CTA'') high-speed line, and from the national securities exchange on which they are listed.

Quotation information from brokers and dealers or pricing services will be available for Municipal Bonds. Price information for money market funds will be available from the applicable investment company's Web site and from market data vendors. Pricing information regarding each asset class in which the Fund will invest will generally be available through nationally recognized data service providers through subscription agreements. In addition, the iNAV (which is the Portfolio Indicative Value, as defined in NYSE Arca Rule 8.600–E(c)(3)), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors or other information providers.[14]

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets may include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[15]

The Fund intends to qualify for and to elect treatment as a separate regulated investment company under Subchapter M of the Internal Revenue Code of 1986.[16]

The Fund's investments will be consistent with its investment goal and will not be used to provide multiple returns of a benchmark or to produce leveraged returns.

Under normal market conditions, except for periods of high cash inflows or outflows,[17] the Fund will satisfy the following criteria:

i. The Fund will have a minimum of 20 non-affiliated issuers;

ii. No single municipal securities issuer will account for more than 10% of the weight of the Fund's portfolio;

iii. No individual bond will account for more than 5% of the weight of the Fund's portfolio;

iv. The Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states;

v. The Fund will be diversified among a minimum of five different sectors of the municipal bond market.[18]

Pre-refunded bonds will be excluded from the above limits given that they have a high level of credit quality and liquidity.[19]

[14] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[15] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

[16] 26 U.S.C. 851.

[17] ''Periods of high cash inflows or outflows'' as used herein, mean rolling periods of seven calendar days during which inflows or outflows of cash, in the aggregate, exceed 10% of the Fund's net assets as of the opening of business on the first day of such periods.

[18] The Fund's investments in Municipal Securities will include investments in state and local (*e.g.,* county, city, town) Municipal Securities relating to such sectors as the following: Airports; bridges and highways; hospitals; housing; jails; mass transportation; nursing homes; parks; public buildings; recreational facilities; school facilities; streets; and water and sewer works.

[19] The Manager represents that pre-refunded bonds (also known as refunded or escrow-secured bonds) have a high level of credit quality and liquidity because the issuer ''prerefunds'' the bond by setting aside in advance all or a portion of the amount to be paid to the bondholders when the bond is called. Generally, an issuer uses the proceeds from a new bond issue to buy high grade, interest bearing debt securities, including direct

Application of Generic Listing Requirements

The Exchange is submitting this proposed rule change because the portfolios for the Fund will not meet all of the ''generic'' listing requirements of Commentary .01 to NYSE Arca Rule 8.600–E applicable to the listing of Managed Fund Shares. The Fund's portfolio will meet all such requirements except for those set forth in Commentary .01(b)(1).[20]

The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in municipal securities will be well-diversified.

The Exchange believes that permitting Fund Shares to be listed and traded on the Exchange notwithstanding that less than 75% of the weight of the Fund's portfolio may consist of components with less than $100 million minimum original principal amount outstanding would provide the Fund with greater ability to select from a broad range of Municipal Securities, as described above, that would support the Fund's investment goal.

The Exchange believes that, notwithstanding that the Fund's portfolio may not satisfy Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolios will not be susceptible to manipulation. As noted above, the Fund's investments will be diversified among a minimum of 20 non-affiliated issuers; no single municipal securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states; and the Fund will be diversified among a minimum of five different sectors of the municipal bond market.

The Exchange notes that, other than Commentary .01(b)(1) to Rule 8.600–E, the Fund's portfolio will meet all other requirements of Rule 8.600–E.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[21] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on NYSE Arca from 4 a.m. to 8 p.m., Eastern Time in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on NYSE Arca is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares of the Fund will conform to the initial and continued listing criteria under NYSE Arca Rule 8.600–E. Consistent with NYSE Arca Rule 8.600–E(d)(2)(B)(ii), the Adviser will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [22] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. The Fund's investments will be consistent with the Fund's investment goal and will not be used to enhance leverage.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[23]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.[24]

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs and ETNs with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs and ETNs from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs and ETNs from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board (''MSRB'') relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

obligations of the U.S. government, which are then deposited in an irrevocable escrow account held by a trustee bank to secure all future payments of principal and interest on the pre-refunded bonds.

[20] Commentary .01(b)(1) to NYSE Arca Rule 8.600–E provides that components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

[21] *See* NYSE Arca Rule 7.12–E, Commentary .04.

[22] 17 CFR 240.10A–3.

[23] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[24] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated iNAV will not be calculated or publicly disseminated; (4) how information regarding the iNAV and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., Eastern Time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [25] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.600–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, ETFs and ETNs with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, ETFs and ETNs from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, ETFs and ETNs from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to TRACE. FINRA also can access data obtained from the MSRB relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares. The Fund may not purchase illiquid assets if, in the aggregate, more than 15% of its net assets would be invested in illiquid assets. Neither the Manager nor Sub-Adviser is a registered broker-dealer but each is affiliated with a broker-dealer. The Manager and Sub-Adviser each has implemented a ''fire wall'' with respect to such broker-dealer affiliate regarding access to information concerning the composition of and/or changes to the Fund's portfolio.

The Exchange believes that it is appropriate and in the public interest to approve listing and trading of Shares of the Fund on the Exchange notwithstanding that the Fund would not meet the requirements of Commentary .01(b)(1) to Rule 8.600–E in that the Fund's investments in municipal securities will be well-diversified. As noted above, the Fund's investments will be well-diversified in that the Fund will have a minimum of 20 non-affiliated issuers; no single municipal securities issuer will account for more than 10% of the weight of the Fund's portfolio; no individual bond will account for more than 5% of the weight of the Fund's portfolio; the Fund will limit its investments in Municipal Securities of any one state to 20% of the Fund's total assets and will be diversified among issuers in at least 10 states; and the Fund will be diversified among a minimum of five different sectors of the municipal bond market.

The Exchange believes that permitting Fund Shares to be listed and traded on the Exchange notwithstanding that less than 75% of the weight of the Fund's portfolio may consist of components with less than $100 million minimum original principal amount outstanding would provide the Fund with greater ability to select from a broad range of municipal securities, as described above, that would support the Fund's investment objective.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Quotation and last sale information for the Shares, ETFs and ETNs will be available via the CTA high-speed line, and from the national securities exchange on which they are listed. Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Trading in the Shares will be subject to NYSE Arca Rule 8.600–E(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the iNAV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

[25] 15 U.S.C. 78f(b)(5).

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded products that principally hold municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, iNAV, Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that principally hold municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–90 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–90. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–90, and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18799 Filed 9–5–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81503; File No. SR–BatsEDGX–2017–35]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Harmonize the Corporate Governance Framework With That of Chicago Board Options Exchange, Incorporated and C2 Options Exchange Incorporated

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 23, 2017, Bats EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On August 25, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend and restate its certificate of incorporation and bylaws, as well as amend its Rules.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

EDGX submits this rule filing to the Securities and Exchange Commission (the ''Commission'') in connection with a corporate transaction (the ''Transaction'') involving, among other things, the recent acquisition of EDGX along with Bats BYX Exchange, Inc. (''Bats BYX''), Bats BZX Exchange, Inc. (''Bats BZX'') and Bats EDGA Exchange, Inc. (''Bats EDGA'' and, together with Bats BYX, Bats BZX, and Bats EDGX, the ''Bats Exchanges'') by CBOE Holdings, Inc. (''CBOE Holdings''). CBOE Holdings is also the parent of Chicago Board Options Exchange, Incorporated (''CBOE'') and C2 Options Exchange, Incorporated (''C2''). This filing proposes to amend and restate the bylaws (and amend the rules, accordingly) and the certificate of incorporation of the Exchange based on the bylaws and certificates of incorporation of CBOE and C2.

Specifically, the Exchange proposes to replace the certificate of incorporation of Bats EDGX Exchange, Inc., (the ''current Certificate'') in its entirety with the Second Amended and Restated Certificate of Incorporation of Bats EDGX Exchange, Inc. (the ''proposed Certificate''). Additionally, the Exchange proposes to replace the Sixth Amended and Restated Bylaws of Bats EDGX Exchange, Inc. (the ''current Bylaws'') in its entirety with the Seventh Amended and Restated Bylaws of Bats EDGX Exchange, Inc. (the ''proposed Bylaws''). The Exchange believes that it is important for each of CBOE Holdings' six U.S. securities exchanges to have a consistent, uniform approach to corporate governance. Therefore, to simplify and unify the governance and corporate practices of these six exchanges, the Exchange proposes to revise the current Certificate and current Bylaws to conform them to the certificates of incorporation and bylaws of the CBOE and C2 exchanges (*i.e.,* the Third Amended and Restated Certificate of Incorporation of Chicago Board Options Exchange, Incorporated and the Fourth Amended and Restated Certificate of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Certificate'') and the Eighth Amended and Restated Bylaws of Chicago Board Options Exchange, Incorporated and the Eighth Amended and Restated Bylaws of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Bylaws'')). The proposed Certificate and proposed Bylaws reflect the expectation that the Exchange will be operated with governance structures similar to those of CBOE and C2. Accordingly, the Exchange proposes to adopt corporate documents that set forth a substantially similar corporate governance framework and related processes as those contained in the CBOE Certificate and CBOE Bylaws. The Exchange believes the proposed changes to the current Certificate and current Bylaws are consistent with the requirements of the Securities Exchange Act of 1934, as amended (the ''Act'').

(a) Changes to the Certificate

In connection with the Transaction, the Exchange proposes to amend and restate the current Certificate to conform to the certificates of incorporation of CBOE and C2. The proposed Certificate is set forth in Exhibit 5B. Specifically, the Exchange proposes to make the following substantive amendments to the current Certificate.

- Adopt an introductory section.
- Amend Article Third to provide further details as to the nature of the business of the Exchange. Specifically, the proposed Certificate will further specify that the nature of the Exchange is (i) to conduct and carry on the function of an ''exchange'' within the meaning of that term in the Act and (ii) to provide a securities market place with high standards of honor and integrity among its Exchange Members and other persons holding rights to access the Exchange's facilities and to promote and maintain just and equitable principles of trade and business.
- Article Fourth of the proposed Certificate specifies that Direct Edge LLC will be the sole owner of the Common Stock and that any sale, transfer or assignment by Direct Edge LLC of any shares of Common Stock will be subject to prior approval by the SEC pursuant to a rule filing. The Exchange notes that Article IV, Section 7 of the current Bylaws similarly precludes the stockholder from transferring or assigning, in whole or in part, its ownership interest(s) in the Exchange.
- Article Fifth of the proposed Certificate is the same as Article Fifth of the CBOE Certificate. Specifically, Article Fifth, subparagraph (a) provides that the governing body of the Exchange shall be its Board. Article Fifth, subparagraph (b) provides that the Board shall consist of not less than five (5) Directors and subparagraph (c) includes language regarding the nomination of directors, which information is substantially similar as is provided in the CBOE Bylaws and the proposed Bylaws.[3] Article Fifth, subparagraph (d) of the proposed Certificate provides that in discharging his or her responsibilities as a member of the Board, each Director shall take into consideration the effect that his or her actions would have on the ability of the Exchange to carry out the Exchange's responsibilities under the Act and on the ability of the Exchange: To engage in conduct that fosters and does not interfere with the Exchange's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest. In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Exchange, each such Director, officer or employee shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission, and the Exchange pursuant to its regulatory authority. The Exchange notes that similar language is included in the current Bylaws.[4]
- Article Sixth of the proposed Certificate governs the indemnification of Directors of the Board. The Exchange notes that its indemnification provision is currently contained in Article VIII of the current Bylaws. In order to conform governance documents across all CBOE Holdings' exchanges and conform indemnification practices, the Exchange is eliminating its indemnification in the bylaws and adopting the same indemnification language that is currently contained in Article Sixth of the CBOE Certificate.
- Article Seventh of the proposed Certificate is the same as Article Seventh of the CBOE Certificate and provides that the Exchange reserves the right to amend, change or repeal any provision of the certificate. It also

[3] *See* Article III of the CBOE Bylaws and proposed Bylaws.

[4] *See* Article III, Section 1(d) and Section 1(e) of the current Bylaws.

provides that before any amendment or repeal of any provision of the certificate shall be effective, the changes must be submitted to the Board, and if such amendment or repeal must be filed with or filed with and approved by the Commission, it won't be effective until filed with or filed with and approved by the Commission.

• Article Eighth of the proposed Certificate is the same as Article Eighth of the CBOE Certificate. Proposed Article Eighth provides that a Director of the Exchange shall not be liable to the Exchange or its stockholders for monetary damages for breach of fiduciary duty as a Director, except to the extent such exemption from liability or limitation is not permitted under Delaware Corporate law.

• Article Ninth of the proposed Certificate is the same as Article Ninth of the CBOE Certificate. Specifically it provides that unless and except to the extent that the Exchange's bylaws require, election of Directors of the Exchange need not be by written ballot.

• Article Tenth of the proposed Certificate is the same as Article Tenth of the CBOE Certificate and provides that in furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board is expressly authorized to make, alter and repeal the Exchange's bylaws, which is already provided for in both the current Bylaws and proposed Bylaws.[5]

• Article Eleventh of the proposed Certificate is the same as Article Eleventh of the CBOE Certificate and is similar to Article XI, Section 3 of the current Bylaws. Particularly, Article Eleventh provides that confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (i) Not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (iii) not be used for any commercial purposes. Additionally, Article Eleventh of the proposed Certificate further provides that nothing in Article Eleventh shall be interpreted as to limit or impede the rights of the Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of the Exchange to disclose such confidential information to the Commission.

(b) Substantive Changes to the Bylaws

In connection with the Transaction, the Exchange also proposes to amend and restate the current Bylaws to conform to the Bylaws of CBOE and C2. The proposed Bylaws is set forth in Exhibit 5D. Specifically, the Exchange proposes to make the following substantive amendments to the current Bylaws:

Definitions

The Exchange first notes that Section 1.1 of the proposed Bylaws, titled ''Definitions,'' contains key definitions of terms used in the proposed Bylaws, and are based on the defined terms used in Section 1.1 of the CBOE Bylaws. The Exchange notes that certain differences in terminology in the proposed Bylaws and CBOE Bylaws will exist (*e.g.,* use of the term ''Exchange Member'' instead of ''Trading Permit Holder''). The Exchange proposes to eliminate from the current Bylaws certain definitions that would be obsolete under the proposed Bylaws (*e.g.,* references to ''Member Representative Directors'' and ''Member Nominating Committee'') and also proposes to move certain defined terms located in the current Bylaws to the EDGX Rules (*i.e.,* ''Industry member'' and ''Member Representative member'').[6] Additionally, the Exchange proposes to define certain terms in the current Bylaws in places other than Section 1.1, so as to match the CBOE Bylaws (*e.g.,* the definition of ''Industry Director'' is being relocated to Article III, Section 3.1 of the proposed Bylaws and the definition of ''Record Date'' is being relocated to Article II, Section 2.7 of the proposed Bylaws).[7]

Office and Agent

The Exchange notes that the information in Article II (Office and Agent) of the current Bylaws is not included in the proposed Bylaws. The Exchange notes that the language contained in Section 2 and 3 of Article II is already located in the current Certificate and will continue to be located in the proposed Certificate.[8] The Exchange does not believe the information contained in Section 1 of Article II is necessary to include in the proposed Bylaws and notes that the CBOE Bylaws do not contain information relating to the principal business office.

Nomination and Election Process

Article III of the proposed Bylaws, titled ''Board of Directors'', mirrors the language in Article III of the CBOE Bylaws and contains key provisions regarding the processes for nominating and electing Representative Directors.

General Nomination and Election

Under the Exchange's current director nomination and election process, the Nominating Committee (which is not a Board committee, but rather is composed of Exchange member representatives)[9] nominates Directors for each Director position standing for election for that year. Additionally, for Member Representative Director positions,[10] the Nominating Committee must nominate the Directors that have been approved and submitted by the Member Nominating Committee (which is also not a Board committee, but rather is composed of Member Representative members).[11] Additionally, pursuant to Article III, Section 3(b) of the current Bylaws, the Exchange Directors are divided into three classes, designated as Class I, Class II and Class III. Directors

[5] *See* Article IX, Section 1 of the current Bylaws and Article IX, Section 9.1 of the proposed Bylaws.

[6] *See* Proposed EDGX Rules, Rule 8.6. The Exchange notes that the definition of a Member Representative member is being revised to eliminate the reference to a Stockholder Exchange Member. Currently, a Stockholder Exchange Member means an Exchange Member that also maintains, directly or indirectly, an ownership interest in the Company. The exchange notes that the sole stockholder of EDGX is Direct Edge LLC, which is a wholly owned subsidiary of CBOE Holdings and is not an Exchange member, and as such, the concept of a Stockholder Exchange Member need not be referenced.

[7] The Exchange notes a few differences between the definitions of Industry Director and Record Date in the current Bylaws and the proposed Bylaws. Specifically, the definition of ''Industry Director'' in Article I, subparagraph (o) of the current Bylaws contains references to specific percentages in order to determine whether a Director qualifies as an Industry Director, whereas the definition of ''Industry Director'' in Article III, Section 3.1, of the proposed Bylaws uses the term ''material portion'' in making those same determinations. The definition of ''Record Date'' in Article I, subparagraph (z) of the current Bylaws means a date at least thirty-five (35) days before the date of the annual meeting of stockholders, whereas Article II, Section 2.7 of the proposed Bylaws provides that the Record Date shall be at least 10 days before the date of the annual meeting of stockholders and not more than 60 days before the annual meeting.

[8] *See* Article Second of the current and proposed Certificates.

[9] *See* Current Bylaws, Article III, Section 4 (''Nomination and Election'') and Article VI, Section 2 (''Nominating Committee'').

[10] *See* Current Bylaws, Article I, (s), which defines a ''Member Representative Director''. A Member Representative Director must be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member.

[11] *See* Current Bylaws Article I, subparagraph (t) (''Member Representative member''). *See also,* Article III, Section 4 (''Nomination and Election'') and Article VI, Section 3 (''Member Nominating Committee'') of the current Bylaws.

other than the Chief Executive Officer of the Exchange (''CEO'') serve staggered three-year terms. The Exchange proposes to adopt a nomination and election process identical to CBOE and C2 as set forth in Article III of the proposed Bylaws. As such, the tiered class system will be eliminated, Directors will serve one-year terms ending on the annual meeting following the meeting at which Directors were elected or at such time as their successors are elected or appointed and the newly established Nominating and Governance Committee will be responsible for nominating each Director.[12]

Nomination and Election of Representative Directors

Currently, pursuant to Article III, Section 4(b) of the current Bylaws, for Member Representative Directors, the Member Nominating Committee consults with the Nominating Committee, the Chairman of the Board and the CEO, and also solicits comments from Exchange Members for purposes of approving and submitting the names of candidates for election as a Member Representative Director. The initial nominees for Member Representative Directors must be reported to the Nominating Committee and Secretary no later than sixty (60) days prior to the annual or special stockholders' meeting, at which point the Secretary will promptly notify Exchange Members. Exchange Members may then identify other candidates by delivering to the Secretary, at least thirty-five (35) days before the annual or special stockholders' meeting, a written petition, identifying the alternative candidate and signed by Executive Representatives [13] of 10% or more of Exchange Members. No Exchange Member, together with its affiliates, may account for more than fifty percent (50%) of the signatures endorsing a particular candidate. If no valid petitions from Exchange Members are received by the Record Date, the initial nominees approved and submitted by the Member Nominating Committee shall be nominated as Member Representative Directors by the Nominating Committee. If one or more valid petitions are received by the Record Date, the Secretary shall include such additional nominees, along with the initial nominees nominated by the Member Nominating Committee, on a list of nominees (the ''List of Candidates'') that is sent to all Exchange Members, accompanied by a notice regarding the time and date of an election to be held at least twenty (20) days prior to the annual or special stockholders' meeting. Each Exchange Member has the right to cast one (1) vote for each available Member Representative Director nomination (the vote must be cast for a person on the List of Candidates and no Exchange Member, together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate). The persons on the List of Candidates who receive the most votes shall be selected as the nominees for the Member Representative Director positions.

For purposes of harmonizing the governance structure and process across all of CBOE Holdings' U.S. securities exchanges, the Exchange proposes to eliminate the Nominating Committee and Member Nominating Committee and adopt a nomination and election process substantially similar to CBOE and C2 for Member Representative Directors (to be renamed ''Representative Directors'').[14] The Exchange notes that unlike the current Bylaws, the proposed Bylaws will not require Representative Directors to be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member, as neither CBOE nor C2 maintain such a requirement. The new process will provide that the ''Representative Director Nominating Body'' shall be responsible for nominating Representative Directors. The Representative Director Nominating Body (''Nominating Body'') is either (i) the Industry-Director Subcommittee of the Nominating and Governance Committee if there are at least two (2) Industry Directors on the Nominating and Governance Committee, or (ii) if the Nominating and Governance Committee has less than two (2) Industry Directors, then the Nominating Body shall mean the Exchange Member Subcommittee of the Advisory Board.[15] The Nominating and Governance Committee shall be bound to accept and nominate the Representative Director nominees recommended by the Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Any person nominated by the Nominating Body and any petition candidate must satisfy the compositional requirements determined by the Board, pursuant to a resolution adopted by the Board, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). Not earlier than December 1 and not later than January 15th (or the first business day thereafter if January 15th is not a business day), the Nominating Body shall issue a circular to Exchange Members identifying the Representative Director nominees. As is the case under the current Bylaws, Exchange Members may nominate alternative candidates for election to the Representative Director positions to be elected in a given year by submitting a petition signed by individuals representing not less than ten percent (10%) of the Exchange Members at that time. Petitions must be filed with the Secretary no later than 5:00 p.m. (Chicago time) on the 10th business day following the issuance of the circular to the Exchange Members identifying the Representative Director nominees (the ''Petition Deadline''). The names of all Representative Director nominees recommended by the Nominating Body and those selected pursuant to a valid and timely petition shall, immediately following their selection, be given to the Secretary who shall promptly issue a circular to all of the Exchange Members identifying all such Representative Director candidates.

If one or more valid petitions are received, the Secretary shall issue a circular to all of the Exchange Members identifying those individuals nominated for Representative Director by the Nominating Body and those individuals nominated for Representative Director through the petition process, as well as of the time and date of a run-off election to determine which individuals will be nominated as Representative Director(s) by the Nominating and Governance Committee (the ''Run-off Election''). The Run-off Election will be held not more than forty-five (45) days after the Petition Deadline. In any Run-off

[12] *See* Article III, Section 3.1 and Article IV, Section 4.3 of the proposed Bylaws.

[13] The term ''Executive Representative'' as defined in the current Bylaws, Article I, means the person identified to the Company by an Exchange Member as the individual authorized to represent, vote, and act on behalf of the Exchange Member. An Executive Representative of an Exchange Member or a substitute shall be a member of senior management of the Exchange Member.

[14] Article III, Section 3.1. of the proposed Bylaws requires that at all times, at least 20% of Directors serving on the Board shall be Representative Directors, which is the same percentage required under the current Bylaws (*see* Article III, Section 2(b)(ii) of the current Bylaws). Article III, Section 3.2 of the proposed Bylaws further clarifies that if 20% of the Directors then serving on the Board is not a whole number, the number of required Representative Directors shall be rounded up to the next whole number.

[15] The Exchange notes that if there are less than two (2) Industry Directors on the Nominating and Governance Committee, it would institute an Advisory Board, if not already established.

Election, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year; provided, however, that no Exchange Member, either alone or together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate.[16] The Secretary shall issue a circular to all of the Exchange Members setting forth the results of the Run-off Election. The number of individual Representative Director nominees equal to the number of Representative Director positions to be filled that year receiving the largest number of votes in the Run-off Election will be the persons approved by the Exchange Members to be nominated as the Representative Director(s) by the Nominating and Governance Committee for that year. The Exchange believes that, under the proposed Board structure, the Representative Directors serve the same function as the Member Representative Directors in that both directorships give Exchange members a voice in the Exchange's use of self-regulatory authority.

Vacancies

Article III, Section 6 of the current Bylaws provides that during a vacancy of any Director other than a Member Representative Director, the Nominating Committee shall nominate an individual Director and the stockholders of EDGX shall elect the new Director.[17] In the event of a vacancy of a Member Representative Director, the Member Nominating Committee shall either (i) recommend an individual to the stockholders to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the stockholders from which the stockholders shall elect the individual to fill such vacancy. The current Bylaws provide that Directors elected to fill a vacancy are to hold office until the expiration of the remaining term.

The Exchange proposes to adopt the same process to fill vacancies as CBOE and C2. Specifically, Article III, Section 3.5 of the proposed Bylaws, which is substantially similar to Article III, Section 3.5 of the CBOE Bylaws, will provide that a vacancy on the Board may be filled by a vote of majority of the Directors then in office, or by the sole remaining Director, so long as the elected Director qualifies for the position. Additionally, for vacancies of Representative Directors, the Nominating Body will recommend an individual to be elected, or provide a list of recommended individuals, and the position shall be filled by the vote of a majority of the Directors then in office. Under the proposed Bylaws, Directors elected to fill a vacancy will serve until the next annual meeting of stockholders.

Removals and Resignation

Article III, Section 7 of the current Bylaws provides that any Director may be removed with or without cause by a majority vote of stockholders and may be removed by the Board, provided however, that any Member Representative Director may only be removed for cause, which includes such Director being subject to a Statutory Disqualification. Additionally, a Director shall be immediately removed upon a determination by the Board, by a majority vote of remaining Directors that (a) the Director no longer satisfies the classification for which the Director was elected and (b) the Director's continued service would violate the compositional requirements of the Board. Article III, Section 7 of the current Bylaws also provides that any Director may resign at any time upon notice of resignation to the Chairman of the Board, the President or Secretary. Resignation shall take effect at the time specified, or if no time is specified, upon receipt of the notice.

Under Article III, Section 3.4 of the proposed Bylaws, which is the same as Article III, Section 3.4, of the CBOE Bylaws, a Director who fails to maintain the applicable Industry or Non-Industry qualifications required under the proposed Bylaws, of which the Board shall be the sole judge, will cease being a Director. The Exchange notes that while the current Bylaws do not address the requalification of a Director, Section 3.4 of the proposed Bylaws permits a Director that fails to maintain the applicable qualifications to requalify within the later of forty-five (45) days from the date when the Board determines the Director is unqualified or until the next regular Board meeting following the date when the Board makes such determination. The Director shall be deemed not to hold office (*i.e.,* the Director's seat is considered vacant) following the date when the Board determines the Director is unqualified. Further, the Board shall be the sole judge of whether the Director has requalified. If a Director is determined to have requalified, the Board, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such Director to the Board; provided, however, that the Board shall be under no obligation to return such Director to the Board. Similar to the current Bylaws, Section 3.4 of the proposed Bylaws provides that Representative Directors may only be removed for cause. In addition to specifying that cause includes being subject to a Statutory Disqualification, the proposed Bylaws further lists additional examples of cause in Section 3.4 (*e.g.,* breach of a Representative Director's duty of loyalty to the Exchange or its stockholders and transactions from which a Representative Director derived an improper personal benefit). Lastly, the Exchange notes that under the proposed Bylaws, resignation must be written and must be given to either the Chairman of the Board or the Secretary.

Board Composition

Pursuant to Article III, Section 2 of the current Bylaws, the Board must consist of four (4) or more Directors, and consist at all times of one (1) Director who is the CEO and a sufficient number of Industry, Non-Industry and Member Representative Directors to ensure that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors. Additionally, the number of Member Representative Directors must be at least twenty (20) percent of the Board. The Exchange proposes to replace the Board composition and structure with that of CBOE and C2. As is the case with CBOE and C2, pursuant to Article III, Section 3.1, of the proposed Bylaws, the Board must consist of at least five (5) directors (which is the minimum number of Directors required for the Nominating and Governance Committee), instead of 4 as required by the current Bylaws. Additionally, the following would apply to the new Board structure:

- The number of Non-Industry Directors, Industry Directors and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any) will be determined by

[16] Article III, Section 3.2 of the CBOE Bylaws provides that in any Run-off Election, a holder of a Trading Permit shall have one vote with respect to each Trading Permit held by such Trading Permit Holder for each Representative Director position to be filled. The Exchange notes that because no ''Trading Permits'' or similar concept exist on the Exchange, it is deviating from this practice and providing instead that each Exchange Member shall have one (1) vote for each Representative Director position to be filled, which the Exchange does not believe is a significant change. The Exchange also notes that other Exchanges have similar practices. *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

[17] The sole stockholder of EDGX is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings.

the Board pursuant to resolution adopted by the Board.[18]

• The proposed Bylaws provide that the number of Non-Industry Directors cannot be less than the number of Industry Directors, whereas the current Bylaws, as noted above, provide that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors.[19] Unlike the current Bylaws, the proposed Bylaws provide that the CEO is excluded from the calculation of Industry Directors, as is the practice under CBOE Bylaws.[20] Additionally, the Exchange notes that the CBOE Bylaws do not contain the term or concept of ''Independent Directors'' and in order to conform the proposed Bylaws to the CBOE Bylaws, the proposed Bylaws also do not reference ''Independent Directors'' with respect to composition.

• The Board or the Nominating and Governance Committee will make all materiality determinations regarding who qualifies as an Industry Director and Non-Industry Director.[21]

• Unlike the current Bylaws which provide that the CEO shall be the Chairman of the Board,[22] the proposed Bylaws, provide that the Chairman will be appointed by the Board and further provides that the Board may designate an Acting Chairman in the event the Chairman is absent or fails to act.[23]

• Unlike the current Bylaws which provide that a Lead Director must be designated by the Board among the Board's Independent Directors,[24] the proposed Bylaws provide that the Board may, but does not have to, appoint a Lead Director, who if appointed, must be a Non-Industry Director, which is the same practice under CBOE's Bylaws.[25]

• The number of Representative Directors must be at least twenty (20) percent of the Board,[26] which is the same requirement under the current Bylaws as noted above.

Meetings

Annual Meeting of the Stockholders

Article IV, Section 1 of the current Bylaws provides that the annual meeting of the stockholders shall be held at such place and time as determined by the Board. The Exchange notes that Article II, Section 2.2 of the proposed Bylaws is being amended to conform to Article II, Section 2.2 of the CBOE Bylaws, which provides as a default that if required by applicable law, an annual meeting of stockholders shall be held on the third Tuesday in May of each year or such other date as may be fixed by the Board, at such time as may be designated by the Secretary prior to the giving of notice of the meeting. Section 2.2 of the proposed Bylaws also provides that in no event shall the annual meeting be held prior to the completion of the process for the nomination of Representative Directors. The proposed Bylaws also provide in Article II, Section 2.1 that in addition to the Board, the Chairman (or CEO if there is no Chairman) may designate the location of the annual meeting. The Exchange notes that it is not including the information contained in Article IV, Section 3 of the current Bylaws. Specifically, Section 3 provides that the Secretary of the Exchange (or designee), shall prepare at least ten (10) days before every meeting of stockholders, a complete list of stockholder entitled to vote at the meeting. The Exchange does not believe this provision is necessary given that EDGX's sole stockholder is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings (and also notes that neither CBOE nor C2 follow this practice).

Special Meetings of the Stockholders

Article IV, Section 2 of the current Bylaws provides that special meetings of the stockholders may be called by the Chairman, the Board or the President, and shall be called by the Secretary at the request in writing of stockholders owning not less than a majority of the then issued and outstanding capital stock of the Exchange entitled to vote. In order to streamline the rules under which special meetings can be called, the Exchange proposes to adopt the same special meeting provision as Article II, Section 2.3 of the CBOE Bylaws. Particularly, under Article II, Section 2.3 of the proposed Bylaws, special meetings of stockholders may only be called by the Chairman or by a majority of the Board. The CBOE Bylaws do not include the ability of stockholders to request a special meeting. The Exchange does not believe this provision is necessary given that EDGX's sole stockholder is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings.

Quorum and Vote Required for Action at a Stockholder Meeting

Article IV, Section 4 of the current Bylaws provides, among other things, that the holders of a majority of the capital stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders. The provision also provides that if there is no quorum at any meeting of the stockholders, the stockholders, present in person or represented by proxy, shall have power to adjourn the meeting until a quorum is present or represented. Additionally, if an adjournment of a meeting of the stockholders is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. Additionally, Article IV, Section 4 provides that when a quorum is present at any meeting, the vote of the holders of a majority of the capital stock having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

The Exchange proposes to adopt Article II, Sections 2.5 and 2.6 of the proposed Bylaws which are the same as Article II, Sections 2.5 and 2.6 of the CBOE Bylaws and similar to Article IV, Section 4 of the current Bylaws. The Exchange notes that unlike the current Bylaws, Article II, Section 2.5 of the proposed Bylaws and CBOE Bylaws do not require notice of an adjourned meeting to be given to each stockholder of record entitled to vote at the meeting if an adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting. The Exchange does not believe this requirement is necessary given that EDGX's sole stockholder is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings. Additionally, in order to conform Article II, Section 2.6 of the proposed Bylaws to the CBOE Bylaws, the Exchange also proposes to explicitly provide that a plurality of votes properly cast shall elect the directors, notwithstanding the language in Article II, 2.6 that provides that when a quorum is present, a majority of the votes properly cast will decide any question brought before a meeting unless a

[18] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.1.

[19] *See* Current Bylaws, Article III, Section 2.

[20] *Id.*

[21] *Id.*

[22] *See* Current Bylaws, Article III, Section 5.

[23] *See* Proposed Bylaws and CBOE Bylaws, Article III, Sections 3.6 and 3.8.

[24] *See* Current Bylaws, Article III, Section 5.

[25] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.7.

[26] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.2.

different vote is required by express provision of statute or the Certificate of Incorporation.

Regular Meetings of the Board

Article III, Sections 8 and 9 of the current Bylaws provide that, with or without notice, a resolution adopted by the Board determines the time and place of the regular meeting and that if no designation as to place is made, then the meeting will be held at the principal business office of the Exchange. Article III, Section 3.10 of the proposed Bylaws, which is the same as Article III, Section 3.10 of the CBOE Bylaws, provides that regular meetings shall be held at such time and place as is determined by the Chairman with notice provided to the full Board.

Special Meetings of the Board

Article III, Section 10 of the current Bylaws provides that special meetings of the Board may be called on a minimum of two (2) days' notice to each Director by the Chairman or the President and shall be called by the Secretary upon written request of three (3) Directors. Article III, Section 3.11 of the proposed Bylaws, which is the same as Article III, Section 3.11 of the CBOE Bylaws, however, provides that special meetings of the Board may be called by the Chairman and shall be called by the Secretary upon written request of any four (4) directors. Additionally, under the proposed Bylaws, the Secretary shall give at least twenty-four (24) hours' notice of such meeting.

Board Quorum

Article III, Section 12 of the current Bylaws provides that a majority of the number of Directors then in office shall constitute a quorum, whereas Article III, Section 3.9 of the proposed Bylaws, which is the same as Article III, Section 3.9 of the CBOE Bylaws, provides that two-thirds of the Directors then in office shall constitute a quorum. Increasing the quorum requirement from a majority to two-thirds will ensure that more Directors are present at meetings of the Board in order to transact business for the Exchange.

Committees of the Board

The current bylaws provide for the following standing committees of the Board: A Compensation Committee, an Audit Committee, a Regulatory Oversight Committee, and an Appeals Committee, each to be comprised of at least three (3) members.[27] The current Bylaws also provide that the Exchange may establish an Executive Committee and a Finance Committee.[28] The Exchange proposes to modify the committees of the Board to eliminate the Audit Committee, Appeals Committee, and Compensation Committee, as well as eliminate the provision relating to a Finance Committee. Additionally, the Exchange proposes to require a mandatory Executive Committee and Nominating and Governance Committee, as well as make several amendments to the Regulatory Oversight Committee provision. The Exchange notes that CBOE and C2 have eliminated their Audit and Compensation Committees and do not maintain an Appeals Committee at the Board level. As previously noted, CBOE and C2 do maintain a Board-level Nominating and Governance Committee, which performs the functions of EDGX's current Nominating and Member Nominating Committees, which the Exchange proposes to eliminate.

Elimination of Compensation Committee

The Exchange seeks to eliminate the Compensation Committee because it believes that the Compensation Committee's functions are duplicative of the functions of the Compensation Committee of its parent company, CBOE Holdings. Specifically, under its committee charter, the CBOE Holdings Compensation Committee has authority to assist the CBOE Holdings Board of Directors in carrying out its overall responsibilities relating to executive compensation and also, among other things, (i) recommending the compensation of the CBOE Holdings' CEO and certain other executive officers and (ii) approving and administering all cash and equity-based incentive compensation plans of CBOE Holdings that affect employees of the CBOE Holdings and its subsidiaries. Similarly, under its committee charter, the EDGX Compensation Committee has authority to fix the compensation of EDGX's CEO and to consider and recommend compensation policies, programs, and practices to the EDGX CEO in connection with the EDGX CEO's fixing of the salaries of other officers and agents of the Exchange.[29] As such, other than to the extent that the EDGX Compensation Committee recommends the compensation of executive officers whose compensation is not already determined by the CBOE Holdings Compensation Committee, its activities are duplicative of the activities of the CBOE Holdings Compensation Committee. Indeed, the Exchange notes that currently the EDGX Compensation Committee only fixes the compensation amount of the EDGX CEO. The Exchange notes that currently the Exchange's CEO is the CEO (*i.e.,* an executive officer) of CBOE Holdings, and as such, the CBOE Holdings Compensation Committee already performs this function. To the extent that compensation need be determined for any EDGX officer who is not also a CBOE Holdings officer in the future, the Board or senior management will perform such action without the use of a compensation committee, as provided for in Article V, Section 5.11 of the proposed Bylaws (which is identical to Article V, Section 5.11 of the CBOE Bylaws). Thus, the responsibilities of the EDGX Compensation Committee are duplicated by the responsibilities of the CBOE Holdings Compensation Committee. The Exchange believes that its proposal to eliminate its Compensation Committee is substantially similar to prior actions taken by other securities exchanges with parent company compensation committees to eliminate their exchange-level compensation committees, including CBOE and C2.[30]

Elimination of Audit Committee

The Exchange also proposes to eliminate its Audit Committee because its functions are duplicative of the functions of the Audit Committee of its parent company, CBOE Holdings. Under its committee charter, the CBOE Holdings Audit Committee has broad authority to assist the CBOE Holdings Board in fulfilling its oversight responsibilities in assessing controls that mitigate the regulatory and operational risks associated with operating the Exchange and assist the CBOE Holdings Board of Directors in discharging its responsibilities relating to, among other things, (i) the qualifications, engagement, and oversight of CBOE Holdings' independent auditor, (ii) CBOE

[27] *See* Current Bylaws, Article V, Section 1 and Section 2(a).

[28] *See* Current Bylaws, Article V, Sections 6(e) and (f), respectively.

[29] The Exchange notes that the Regulatory Oversight Committee (''ROC'') of the EDGX Board recommends to the Board compensation for the Chief Regulatory Officer. The Exchange also notes that currently not all executive officers of EDGX are required to have their compensation determined by the Compensation Committee.

[30] *See e.g.,* Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017) and Securities Exchange Act Release No. 80522 (April 25, 2017), 82 FR 20409 (May 1, 2017) (SR–C2–2017–009). *See also* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042) and Securities Exchange Act Release No. 62304 (June 16, 2010), 75 FR 36136 (June 24, 2010) (SR–NYSEArca-2010–31).

Holdings' financial statements and disclosure matters, (iii) CBOE Holdings' internal audit function and internal controls, and (iv) CBOE Holdings' oversight and risk management, including compliance with legal and regulatory requirements. Because CBOE Holdings' financial statements are prepared on a consolidated basis that includes the financial results of CBOE Holdings' subsidiaries, including EDGX, the CBOE Holdings Audit Committee's purview necessarily includes EDGX. The Exchange notes that unconsolidated financial statements of the Exchange will still be prepared for each fiscal year in accordance with the requirements set forth in its application for registration as a national securities exchange. The CBOE Holdings Audit Committee is composed of at least three (3) CBOE Holdings directors, all of whom must be independent within the meaning given to that term in the CBOE Holdings Bylaws and Corporate Governance Guidelines and Rule 10A–3 under the Act.[31] All CBOE Holdings Audit Committee members must be financially literate (or become financially literate within a reasonable period of time after appointment to the Committee), and at least one (1) member of the Committee must be an ''audit committee financial expert'' as defined by the Securities and Exchange Commission (''SEC''). By contrast, the EDGX Audit Committee has a more limited role, focused on EDGX. Under its charter, the primary functions of the EDGX Audit Committee are focused on (i) EDGX's financial statements and disclosure matters and (ii) EDGX's oversight and risk management, including compliance with legal and regulatory requirements, in each case, only to the extent required in connection with EDGX's discharge of its obligations as a self-regulatory organization. However, to the extent that the EDGX Audit Committee reviews financial statements and disclosure matters, its activities are duplicative of the activities of the CBOE Holdings Audit Committee, which is also charged with review of financial statements and disclosure matters. Similarly, the CBOE Holdings Audit Committee has general responsibility for oversight and risk management, including compliance with legal and regulatory requirements, for CBOE Holdings and all of its subsidiaries, including EDGX. Thus, the responsibilities of the EDGX Audit Committee are fully duplicated by the responsibilities of the CBOE Holdings Audit Committee. The Exchange believes that its proposal to eliminate its Audit Committee is substantially similar to prior actions by other securities exchanges with parent company audit committees to eliminate their exchange-level audit committees, including CBOE and C2.[32]

Elimination of Appeals Committee

The Exchange next proposes to eliminate the Appeals Committee. Pursuant to Article V, Section 6(d) of the current Bylaws, the Chairman, with the approval of the Board, shall appoint an Appeals Committee. The Appeals Committee shall consist of one (1) Independent Director, one (1) Industry Director, and one (1) Member Representative Director and presides over all appeals related to disciplinary and adverse action determinations in accordance with the Rules. The Exchange notes that neither CBOE nor C2 maintain a Board-level Appeals Committee. Rather, CBOE and C2 currently maintain an Exchange-level Appeals Committee.[33] The Exchange notes that although it is proposing to eliminate the Appeals Committee as a specified Board-level committee at this time, the Exchange will still have the ability to appoint either a Board-level or exchange-level Appeals Committee pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws. Although, CBOE and C2 have a standing exchange-level Appeals Committee, the Exchange prefers not to have to maintain and staff a standing Appeals Committee, but rather provide its Board the flexibility to determine whether to establish a Board-level or exchange-level Appeals Committee, as needed or desired. The Exchange also notes that other Exchanges similarly do not require standing Appeals Committees.[34] The elimination of the requirement in the bylaws to maintain a standing Appeals Committee would provide consistency among the Bylaws for all of CBOE Holdings' U.S. securities exchanges, while still providing the Board the authority to appoint an Appeals Committee in the future as needed.

Elimination of Finance Committee

Pursuant to Article V, Section 6(f) of the current Bylaws, the Chairman, with the approval of the Board, may appoint a Finance Committee. The Finance Committee shall advise the Board with respect to the oversight of the financial operations and conditions of the Exchange, including recommendations for the Exchange's annual operating and capital budgets. The Exchange notes that it does not currently have a Finance Committee and that, similarly, CBOE and C2 do not have an exchange-level Finance Committee. As the Exchange currently does not maintain, and has no current intention of establishing, an exchange-level Finance Committee, it does not believe it is necessary to maintain this provision. The Exchange notes that should it desire to establish a Finance Committee in the future, it still maintains the authority to do so under Article IV, Section 4.1 of the proposed Bylaws.

Changes to the Regulatory Oversight Committee

Article V, Section 6(c) of the current Bylaws relates to the Regulatory Oversight Committee (''ROC''), which oversees the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities. The Exchange proposes to adopt Article IV, Section 4.4, which amends the ROC provision to conform to Article IV, Section 4.4 of the CBOE Bylaws.[35] First, the Exchange also proposes to specify that the ROC shall consist of at least three (3) directors, all of whom are Non-Industry Directors who are appointed by the Board on the recommendation of the Non-Industry Directors serving on the Nominating and Governance Committee (including the designation of the Chairman of the ROC). While the current Bylaws also require all ROC members to be Non-Industry Directors, it does not specify a minimum number of directors. The current Bylaws also provide that the Chairman of the Board (instead of a Nominating and Governance Committee), with approval of the Board, appoints the ROC members.

Next, while the current Bylaws explicitly delineate some of the ROC's responsibilities, the Exchange proposes to provide more broadly that the ROC shall have the duties and may exercise such authority as may be prescribed by resolution of the Board, the Bylaws or the Rules of the Exchange. Particularly,

[31] 17 CFR 240.10A–3.

[32] *See, e.g.,* Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010) and Securities Exchange Act Release No. 64128 (March 25, 2011), 76 FR 17973 (March 31, 2011) (SR–C2–2011–003). *See also,* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042).

[33] *See e.g.,* CBOE Rule 2.1 and C2 Chapter 19, which incorporates by reference CBOE Chapter XIX (Hearings and Review), which references the Appeals Committee.

[34] For example, neither the Bylaws nor Rules of BOX Options Exchange, LLC mandate an Appeals Committee. *See* Bylaws of Box Options Exchange LLC and Rules of Box Options Exchange, LLC.

[35] The Exchange does not intend at this time to rename the ROC the ''Regulatory Oversight and Compliance Committee'' (''ROCC''), which is the name of the equivalent committee of CBOE and C2.

Article V, Section 6(c) of the current Bylaws provide that the ROC shall oversee the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities, assess the Exchange's regulatory performance, assist the Board and Board committees in reviewing the regulatory plan and the overall effectiveness of Exchange's regulatory functions and, in consultation with the CEO, establish the goals, assess the performance, and fix the compensation of the Chief Regulatory Officer (''CRO''). The Exchange notes that the ROC will continue to have the foregoing duties and authority, with the exception that the ROC will no longer consult the CEO with respect to establishing the goals, assessing the performance and fixing compensation of the CRO. The proposed change to eliminate the CEO's involvement in establishing the goals, assessing the performance and fixing compensation of the CRO is consistent with the Exchange's desire to maintain the independence of the regulatory functions of the Exchange. The Exchange notes that each of the abovementioned proposed changes provide for the same language and appointment process used by CBOE and C2 with respect to the ROC, which provides consistency among the CBOE Holdings U.S. securities exchanges.[36]

Creation of a Mandatory Executive Committee

Article V, Section 6(e) of the current Bylaws provides that the Chairman, with approval of the Board, may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange between meetings of the Board.[37] The current Bylaws provide that the number of Non-Industry Directors on the Executive Committee shall equal or exceed the number of Industry Directors on the Executive Committee. In addition, the percentage of Independent Directors on the Executive Committee shall be at least as great as the percentage of Independent Directors on the whole Board, and the percentage of Member Representative Directors on the Executive Committee shall be at least as great as the percentage of Member Representative Directors on the whole Board.

Under the proposed Bylaws, the Exchange proposes to require that the Exchange maintain an Executive Committee and delineates its composition and functions in Article IV, Section 4.2 of the proposed Bylaws. Similar to the current Bylaw provisions relating to the Executive Committee, the proposed Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange. Unlike the current Executive Committee provisions, however, the proposed Executive Committee shall not have the power and authority of the Board to (i) approve or adopt or recommend to the stockholders any action or matter (other than the election or removal of Directors) expressly required by Delaware law to be submitted to stockholders for approval, including without limitation, amending the certificate of incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Exchange's property and assets, or approval of a dissolution of the Exchange or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any bylaw of the Exchange. Additionally, Section 4.2 of the proposed Bylaws provides that the Executive Committee shall consist of the Chairman, the CEO (if a Director), the Lead Director, if any, at least one (1) Representative Director and such other number of Directors that the Board deems appropriate, provided that in no event shall the number of Non-Industry Directors constitute less than the number of Industry Directors serving on the Executive Committee (excluding the CEO from the calculation of Industry Directors for this purpose). The Directors (other than the Chairman, CEO and Lead Director, if any) serving on the Executive Committee shall be appointed by the Board on the recommendation of the Nominating and Governance Committee of the Board. Directors serving on the Executive Committee may be removed by the Board in accordance with the bylaws. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of the Executive Committee shall be a voting member and shall serve for a term of one (1) year expiring at the first regular meeting of Directors following the annual meeting of stockholders each year or until their successors are appointed. The Exchange notes that CBOE and C2 have an Executive Committee and that the proposed composition requirements and functions are the same as CBOE and C2.[38]

Elimination of Nominating and Member Nominating Committees and Creation of Nominating and Governance Committee

The Exchange also proposes to eliminate the current Nominating and Member Nominating Committees, and to prescribe that their duties be performed by the new Nominating and Governance Committee of the Board (as discussed below). The Nominating Committee is a non-Board committee and is elected on an annual basis by vote of the Exchange's sole stockholder, Direct Edge LLC.[39] The Nominating Committee is primarily charged with nominating candidates for election to the Board at the annual stockholder meeting and all other vacant or new Director positions on the Board and ensuring, in making such nominations, that candidates meet the compositional requirements set forth in the bylaws. The Member Nominating Committee is also a non-Board committee and elected on an annual basis by vote of the Exchange's sole stockholder, Direct Edge LLC.[40] Each Member Nominating Committee member must be a Member Representative member (*i.e.,* an officer, director, employee or agent of an Exchange Member that is not a Stockholder Exchange Member).[41] The Member Nominating Committee is primarily charged with nominating candidates for each Member Representative Director position on the Board.

The Exchange proposes to adopt a Nominating and Governance Committee which would have the same responsibilities currently delegated to the CBOE and C2 Nominating and Governance Committees. Specifically, the Exchange proposes to adopt Article IV, Section 4.3, which is the same as Article IV, Section 4.3 of the CBOE Bylaws, which would provide that the Nominating and Governance Committee shall consist of at least five (5) directors and shall at all times have a majority of Non-Industry Directors. Members of the committee would be recommended by the Nominating and Governance Committee for approval by the Board and shall not be subject to removal except by the Board. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance

[36] *See* CBOE Bylaws Article IV, Section 4.4.

[37] The Exchange does not presently have an Executive Committee.

[38] *See* CBOE Bylaws, Article IV, Section 4.2.

[39] *See* Article VI, Sections 1 and 2. A Nominating Committee member may simultaneously serve on the Nominating Committee and the Board, unless the Nominating Committee is nominating Director candidates for the Director's class. The number of Non-Industry members on the Nominating Committee shall equal or exceed the number of Industry members on the Nominating Committee.

[40] *See* Article VI, Sections 1 and 3.

[41] *See* Article VI, Section 3.

Committee for approval by the Board. The Nominating and Governance Committee would be primarily charged with the authority to nominate individuals for election as Directors of the Exchange. The Nominating and Governance Committee would also have such other duties and may exercise such other authority as may be prescribed by resolution of the Board and the Nominating and Governance Committee charter as adopted by resolution of the Board. If the Nominating and Governance Committee has two (2) or more Industry Directors, there shall be an Industry-Director Subcommittee consisting of all of the Industry Directors then serving on the Nominating and Governance Committee, which shall act as the Representative Director Nominating Body (as previously discussed) if and to the extent required by the proposed Bylaws. The Exchange believes that the duties and functions of the eliminated Nominating and Member Nominating Committees would continue to be performed and covered in the new corporate governance structure under the proposed Bylaws.

Creation of an Advisory Board

The Exchange proposes to adopt Article VI, Section 6.1, which provides that the Board may establish an Advisory Board which shall advise the Board and management regarding matters of interest to Exchange Members. The Exchange believes the Advisory Board could provide a vehicle for Exchange management to receive advice from the perspective of Exchange Members and regarding matters that impact Exchange Members. Under Article VI, Section 6.1 of the proposed Bylaws, the Board would determine the number of members of an Advisory Board, if established, including at least two members who are Exchange Members or persons associated with Exchange Members. Additionally, the CEO or his or her designee would serve as the Chairman of an Advisory Board and the Nominating and Governance Committee would recommend the members of an Advisory Board for approval by the Board. There would also be an Exchange Member Subcommittee of the Advisory Board consisting of all members of the Advisory Board who are Exchange Members or persons associated with Exchange Members, which shall act as the Representative Director Nominating Body if and to the extent required by the proposed Bylaws. An Advisory Board would be completely advisory in nature and not be vested with any Exchange decision-making authority or other authority to act on behalf of the Exchange. The Exchange notes that CBOE and C2 currently maintain an Advisory Board, with the same proposed compositional requirements and functions.[42] The Exchange also notes, however, that while for CBOE and C2 an Advisory Board is mandatory, an Advisory Board for the Exchange would be permissive as the Exchange desires flexibility to determine if an Advisory Board should be established in the future. The Exchange notes that there is no statutory requirement to maintain an Advisory Board or Advisory Committee and indeed, other Exchanges, including EDGX itself, do not require the establishment of an Advisory Board.[43]

Officers, Agents, and Employees

General

Article VII, Section 1 of the current Bylaws provides that that an individual may not hold office as both the President and Secretary, whereas the CBOE Bylaws provide an individual may not hold office as both the CEO and President and that the CEO and President may not hold office as either the Secretary or Assistant Secretary.[44] As these requirements are similar, if not more restrictive under the CBOE Bylaws, the Exchange proposes to include the same provisions in the CBOE Bylaws Article V, Section 5.1 of the proposed Bylaws.

Resignation and Removal

Article VII, Section 3 of the current Bylaws provides that any officer may resign at any time upon notice of resignation to the Chairman and CEO, the President or the Secretary. The Exchange proposes to amend the provision relating to officer resignations to provide that any officer may resign at any time upon delivering written notice to the Exchange at its principal office, or to the CEO or Secretary.[45] Article VII, Section 3 of the current Bylaws also provides that any officer may be removed, with or without cause, by the Board. The Exchange proposes to provide that, in addition to being removed by the Board, an officer may be removed at any time by the CEO or President (provided that the CEO can only be removed by the Board).[46] Provisions relating to resignation and removal of officers in the proposed Bylaws will be identical to the relevant provisions of the CBOE Bylaws.[47]

Compensation

Article VII, Section 4 of the current Bylaws provides that the CEO, after consultation of the Compensation Committee, shall fix the salaries of officers of the Exchange and also states that the CEO's compensation shall be fixed by the Compensation Committee. In order to conform compensation practices to those of CBOE and C2, the Exchange proposes to modify these provisions to provide that in lieu of the CEO, the Board, unless otherwise delegated to a committee of the Board or to members of senior management, may fix the salaries of officers of the Exchange.[48] Additionally, in conjunction with the proposed change to eliminate the EDGX Compensation Committee, the Exchange proposes to eliminate language providing that the CEO's compensation is fixed by the Compensation Committee.

Chief Executive Officer and President

Article VII, Section 6 of the current Bylaws pertains to the CEO. The current Bylaws provide that the CEO shall be the Chairman of the Board. CBOE and C2, however, do not require that the CEO be Chairman of the Board. The Exchange desires similar flexibility in appointing its Chairman and, therefore, this requirement is not carried over in the proposed Bylaws.[49] Instead, Article V, Section 5.1 of the proposed Bylaws provides that the CEO shall be appointed by an affirmative vote of the majority of the Board, and may but need not be, the Chairman of the Board. The Exchange notes that to conform the language to the CBOE Bylaws, Article V, Section 5.2 of the proposed Bylaws also states that the CEO shall be the official representative of the Exchange in all public matters and provides that the CEO shall not engage in another business during his incumbency except with approval of the Board. Additionally, the Exchange proposes not to carry over language in the current Bylaws that provides that the CEO shall not participate in executive sessions of the Board, as CBOE Bylaws do not contain a similar restriction.

Article V, Section 5.3 of the proposed Bylaws proposes to provide that the President shall be the chief operating officer of the Exchange. The Exchange notes that the current Bylaws do not address appointing a chief operating

[42] *See* Article VI, Section 6.1 of CBOE Bylaws.

[43] For example, BOX Options Exchange, LLC does not require an advisory committee.

[44] *See* Article V, Section 5.1 of CBOE Bylaws.

[45] *See* Proposed Bylaws, Article V, Section 5.9.

[46] *See* Proposed Bylaws, Article V, Section 5.8.

[47] *See* Article V, Sections 5.8 and 5.9 of the CBOE Bylaws.

[48] *See* Proposed Bylaws, Article V, Section 5.11.

[49] The Exchange notes that currently the CEO of EDGX is also Chairman of the Board.

officer. Additionally, while Article VII, Section 7 of the current Bylaws provides that the President shall have all powers and duties usually incident to the office of the President, except as specifically limited by a resolution of the Board, and shall exercise such other powers and perform such other duties as may be assigned to the President from time to time by the Board, Article V, Section 5.3 of the proposed Bylaws further states that in the event that the CEO does not act, the President shall perform the officer duties of the CEO, which is consistent with the language in the CBOE Bylaws.

Other Officers

The Exchange notes the following modifications relating to officer provisions in the proposed Bylaws, which are intended to conform the proposed Bylaws to the CBOE Bylaws:

- Article V, Sections 5.1 and 5.4 of the proposed Bylaws, which is identical to Article V, Sections 5.1 and 5.4 of the CBOE Bylaws, will provide that the Chief Financial Officer (''CFO'') is designated as an officer of the Exchange and that the Board and CEO may assign the CFO powers and duties as they see fit. The Exchange notes that the role of a CFO is not referenced in the current Bylaws.
- The proposed Bylaws eliminate the requirement in the current Bylaws that the Chief Regulatory Officer (''CRO'') is a designated officer of the Exchange.[50] As noted above, the Exchange desires to conform its Bylaws to the Bylaws of CBOE and the CBOE Bylaws do not reference the role of the CRO. The Exchange notes that notwithstanding the proposed elimination of the CRO provision, there is no intention to eliminate the role of the CRO.
- Article VII, Section 10 of the current Bylaws requires the Secretary to keep official records of Board meetings. The Exchange proposes to add to Article V, Section 5.6 of the proposed Bylaws, which is similar to the current Bylaws and based on Article V, Section 5.6 of the CBOE Bylaws, which requires that in addition to all meetings of the Board, the Secretary must keep official records of all meetings of stockholders and of Exchange Members at which action is taken.
- Article V, Section 5.7 of the proposed Bylaws, which is based on Article 5.7 of the CBOE Bylaws, would provide that the Treasurer perform such duties and powers as the Board, the CEO or CFO proscribes (whereas Article VII, Section 12 of the current Bylaws provides that such duties and powers may be proscribed by the Board, CEO or President).
- While the current Bylaws contain separate provisions relating to an Assistant Secretary and an Assistant Treasurer, the proposed Bylaws do not, as CBOE Bylaws similarly do not contain such provisions.[51]

Amendments

Article IX, Section 1 of the current Bylaws provides that the bylaws may be altered, amended, or repealed, or new bylaws adopted, (i) by written consent of the stockholders of the Exchange or (ii) at any meeting of the Board by resolution. The proposed Bylaws, however, eliminate the ability of stockholders to act by written consent and instead provides that in order for the stockholders of the Exchange to alter, amend, repeal or adopt new bylaws, there must be an affirmative vote of the stockholders present at any annual meeting at which a quorum is present.[52] Additionally, unlike the current Bylaws, the Exchange proposes to explicitly provide that changes to the bylaws shall not become effective until filed with or filed with and approved by the SEC, to avoid confusion as to when proposed amendments to the Bylaws can take effect.[53] The proposed provisions are the same as the corresponding provisions in the CBOE Bylaws.[54]

General Provisions

The Exchange proposes to add Article VIII, Section 8.1 of the proposed Bylaws, which is the same as Article VIII, Section 8.1 of the CBOE Bylaws, that unless otherwise determined by the Board, the fiscal year of the Exchange ends on the close of business December 31 each year, as compared to Article XI, Section 1 of the current Bylaws, which provides that the fiscal year of the Exchange shall be as determined from time to time by the Board. Note that the Exchange's fiscal year currently ends on the close of business December 31 each year.

The Exchange also proposes to add Article VIII, Section 8.2 of the proposed Bylaws, which is the same as Article VIII, Section 8.2 of the CBOE Bylaws, which governs the execution of instruments such as checks, drafts and bills of exchange and contracts and which is similar to Article XI, Section 6 of the current Bylaws.

Next, the Exchange proposes to adopt Article VIII, Section 8.4, which provides that, except as the Board may otherwise designate, the Chairman of the Board, CEO, CFO or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Exchange (with or without power of substitution) at, any meeting of stockholders or shareholders of any other corporation or organization, the securities of which may be held by the Exchange. The proposed provision is the same as Article VIII, Section 8.4 of the CBOE Bylaws and similar to Article XI, Section 7 of the current Bylaws, which provides generally that the CEO has the power and authority to act on behalf of the Company at any meeting of stockholders, partners or equity holders of any other corporation or organization, the securities of which may be held by the Exchange.

The Exchange proposes to adopt Article VIII, Section 8.7, which governs transactions with interested parties. Proposed Article VIII, Section 8.7 is the same as Article VIII, Section 8.7 of the CBOE Bylaws and substantially similar to language contained in Article III, Section 18 of the current Bylaws. Similarly, the Exchange proposes to adopt Article VIII, Section 8.8 which governs severability and is the same as Article VIII, Section 8.8 of CBOE Bylaws and substantially similar to Article XI, Section 8 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.10 which provides that the board may authorize any officer or agent of the Corporation to enter into any contract, or execute and deliver any instrument in the name of, or on behalf of the Corporation. The proposed language is the same as the language in Article VIII, Section 8.10 of the CBOE Bylaws and similar to related language in Article XI, Section 6 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.12, relating to books and records and which is the same as Article VIII, Section 8.12 of CBOE Bylaws and which is similar to language contained in Article XI, Section 3 of the current Bylaws.

New Bylaw Provisions

The Exchange proposes to add provisions to the proposed Bylaws that are not included in the current Bylaws in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges. Specifically, the Exchange proposes to add the following to the proposed Bylaws:

[50] *See* Current Bylaws, Article VII, Section 9.

[51] *See* Article VII, Sections 11 and 13 of the current Bylaws.

[52] *See* Proposed Bylaws, Article IX, Section 9.2.

[53] *See* Proposed Bylaws, Article IX, Section 9.3.

[54] *See* Article IX, Sections 9.2 and 9.3 of the CBOE Bylaws.

• Article VII, which addresses notice requirements for any notice required to be given by the bylaws or Rules, including Article VII, Section 7.2, which provides whenever any notice to any stockholder is required, such notice may be given by a form of electronic transmission if the stockholder to whom such notice is given has previously consented to the receipt of notice by electronic transmission. The language mirrors the language set forth in Article VII, Section 7.2 of the CBOE Bylaws.

• Article VIII, Section 8.3 which is identical to Article VIII, Section 8.3 of the CBOE Bylaws, which provides that the corporate seal, if any, shall be in such form as approved by the board or officer of the Corporation.

• Article VIII, Section 8.5, which provides that a certificate by the Secretary, or Assistant Secretary, if any, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Exchange shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action. This language is identical to the language contained in Article VIII, Section 8.5 of the CBOE Bylaws.

• Article VIII, Section 8.6., which is identical to Article VIII, Section 8.6 of the CBOE Bylaws, which provides all references to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended, altered or restated and in effect from time to time.

• Article VIII, Section 8.11, which provides that the Exchange may lend money or assist an employee of the Exchange when the loan, guarantee or assistance may reasonably benefit the Exchange. This language is identical to the language contained in Article VIII, Section 8.11 of the CBOE Bylaws.

Eliminated Bylaw Provisions

The Exchange notes that the following provisions in the current Bylaws are not carried over in either the proposed Bylaws or proposed Certificate in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges:

• Article III, Sections 13 and 17. Section 13 provides that a director who is present at a Board or Board Committee meeting at which action is taken is conclusively presumed to have assented to action being taken unless his or her dissent or election to abstain is entered into the minutes or filed. Section 17 provides that the Board has the power to interpret the Bylaws and any interpretations made shall be final and conclusive. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.

• Article IX, Section 2, which relates to the Board's authority to adopt emergency Bylaws to be operative during any emergency resulting from, among other things, any nuclear or atomic disaster or attack on the United States, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee cannot readily be convened for action. Similarly, Article IX, Section 3, provides that the Board, or Board's designee, in the event of extraordinary market conditions, has the authority to take certain actions. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.

• Article X, Section 2, which relates to disciplinary proceedings and provides that the Board is authorized to establish procedures relating to disciplinary proceedings involving Exchange Members and their associated persons, as well as impose various sanctions applicable to Exchange Members and persons associated with Exchange Members. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. Additionally, the Exchange notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such procedures and/or rules if necessary or desirable.[55]

• Article X, Section 3, which relates to membership qualifications and provides, among other things, that the Board has authority to adopt rules and regulations applicable to Exchange Members and Exchange Member applicants, as well as establish specified and appropriate standards with respect to the training, experience, competence, financial responsibility, operational capability, and other qualifications. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. The Exchange again notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such rules and regulations if necessary or desirable.

• Article X, Section 4, which relates to fees, provides that the Board has authority to fix and charge fees, dues, assessments, and other charges to be paid by Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls; provided that such fees, dues, assessments, and other charges shall be equitably allocated among Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls. The Exchange does not wish to include this section of the provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. To the extent the Board wishes to adopt such fees and dues, it has the authority pursuant to Article III, Section 3.3 of the proposed Bylaws. The Exchange notes that with respect to the language in Article X, Section 4 of the current Bylaws relating to the prohibition of using revenues received from fees derived from its regulatory function or penalties for non-regulatory purposes, similar language exists within CBOE Rules, particularly, CBOE Rule 2.51. In order to conform the Bylaws, the Exchange wishes to similarly, relocate this language to its rules, instead of maintaining it in its Bylaws. Specifically, the Exchange proposes to adopt new Rule 15.2, which language is based off CBOE Rule 2.51. The Exchange notes that this provision is designed to preclude the Exchange from using its authority to raise regulatory funds for the purpose of benefitting its Stockholder. Unlike CBOE Rule 2.51 however, proposed Rule 15.2 explicitly provides that regulatory funds may not be distributed to the stockholder. The Exchange notes that this language is currently contained in Article X, section 4 of the current Bylaws. Additionally, while not explicit in CBOE Rule 2.51, the Exchange notes that the rule filing that adopted Rule 2.51 does similarly state that regulatory funds may be not distributed to CBOE's stockholder.[56] Although proposed Rule 15.2 will differ slightly from CBOE Rule 2.51, the Exchange wishes to make this point clear to avoid potential confusion. Lastly, the Exchange notes that unlike Article X, Section 4 of the current Bylaws, proposed Rule 15.2, like CBOE Rule 2.51, will provide that notwithstanding the preclusion to use regulatory revenue for non-regulatory purposes, in the event of liquidation of the Exchange, Direct Edge LLC will be

[55] The Exchange notes that the language in proposed Article III, Section 3.3 is similar to language provided for in Article X, Section 1 of the current Bylaws.

[56] *See* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088).

entitled to the distribution of the remaining assets of the Exchange.

• Certain sections in Article XI, including Section 2 (''Participation in Board and Committee Meetings''), Section 4 (''Dividends'') and Section 5 (''Reserves''). More specifically, Article XI, Section 2 governs who may attend Board and Board committee meetings pertaining to the self-regulatory function of the Exchange and particularly, provides among other things, that Board and Board Committee meetings relating to the self-regulatory function of the Company are closed to all persons other than members of the Boards, officers, staff and counsel or other advisors whose participation is necessary or appropriate. [57] Article XI, Section 4 provides that dividends may be declared upon the capital stock of the Exchange by the Board. Article XI, Section 5 provides that before any dividends are paid out, there must be set aside funds that the Board determines is proper as a reserves. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' U.S. securities exchanges.

(c) Changes to Rules

The Exchange will also amend its rules in conjunction with the proposed changes to its bylaws. The proposed rule changes are set forth in Exhibit 5E. First, the Exchange proposes to update the reference to the bylaws in Rule 1.1. Next, the Exchange notes that in order to keep the governance documents uniform, it proposes to eliminate the definitions of ''Industry member'', ''Member Representative member'' and ''Director'' from Article I of the current Bylaws. The Exchange notes that Industry members and Member Representative members are still used for Hearing Panels pursuant to Rule 8.6. As such, the Exchange proposes to relocate these definitions to the rules (specifically, Rule 8.6) and proposes to update the reference to the location of the definitions in Rule 8.6 accordingly (*i.e.,* refer to the definition in Rule 8.6 as opposed to the definition in the bylaws). The Exchange also proposes to eliminate language in Rule 2.10 that, in connection with a reference to ''Director'', states ''as such term is defined in the Bylaws of the Exchange''. As the definition of Director is being eliminated in the Bylaws, the Exchange is seeking to remove the obsolete language in Rule 2.10.

Lastly, as discussed above, the Exchange proposes to add new Rule 15.2, which will provide that any revenues received by the Exchange from fees derived from its regulatory function or regulatory fines will not be used for non-regulatory purposes or distributed to the Stockholder, but rather, shall be applied to fund the legal and regulatory operations of the Exchange (including surveillance and enforcement activities), or be used to pay restitution and disgorgement of funds intended for customers (except in the event of liquidation of the Exchange, which case Direct Edge LLC will be entitled to the distribution of the remaining assets of the Exchange). As more fully discussed above in the ''Eliminated Bylaw Provisions'' section, the proposed change is similar to Article X, Section 4 of the current Bylaws and based on Rule 2.51 of CBOE Rules.

The Exchange believes that the proposed changes to the current Bylaws and current Certificate would align its governance documents with the governance documents of each of CBOE and C2, which preserves governance continuity across each of CBOE Holdings' six U.S. securities exchanges. The Exchange also notes that the Exchange will continue to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply and to enforce compliance by its Members and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the Rules, as required by Section 6(b)(1) of the Act.[58]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[59] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [60] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [61] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that its proposal to adopt the Board and committee structure and related nomination and election processes set forth in the proposed Bylaws are consistent with the Act, including Section 6(b)(1) of the Act, which requires, among other things, that a national securities exchange be organized to carry out the purposes of the Act and comply with the requirements of the Act. In general, the proposed changes would make the Board and committee composition requirements, and related nomination and election processes, more consistent with those of its affiliates, CBOE and C2. The Exchange therefore believes that the proposed changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated with members. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3) [62] and (b)(5) of the Act in particular, in that it is designed to assure a fair representation of Exchange Members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the

[57] Article XI, Section 2 also provides that in no event shall members of the Board of Directors of CBOE Holdings, Inc., CBOE V, LLC or Direct Edge LLC who are not also members of the Board, or any officers, staff, counsel or advisors of CBOE Holdings, Inc., CBOE V, LLC or Direct Edge LLC who are not also officers, staff, counsel or advisors of the Company (or any committees of the Board), be allowed to participate in any meetings of the Board (or any committee of the Board) pertaining to the self-regulatory function of the Company (including disciplinary matters).

[58] 15 U.S.C. 78f(b)(1).

[59] 15 U.S.C. 78f(b).

[60] 15 U.S.C. 78f(b)(5).

[61] *Id.*

[62] 15 U.S.C. 78f(b)(3).

exchange, broker, or dealer; and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. For example, the number of Non-Industry Directors must not be less than the number of Industry Directors. Additionally, the Exchange believes that the 20% requirement for Representative Directors and the proposed method for selecting Representative Directors ensures fair representation and allows members to have a voice in the Exchange's use of its self-regulatory authority. For instance, the proposed Bylaws includes a process by which Exchange members can directly petition and vote for representation on the Board.

Additionally, the Exchange believes the proposed Certificate, Bylaws and rules support a corporate governance framework, including the proposed Board and Board Committee structure that preserves the independence of the Exchange's self-regulatory function and insulates the Exchange's regulatory functions from its market and other commercial interests so that the Exchange can continue to carry out its regulatory obligations. Particularly, the proposed governance documents provide that Directors must take into consideration the effect that his or her actions would have on the ability of the Company to carry out its regulatory responsibilities under the Act and the proposed changes to the rules includes the restriction on using revenues derived from the Exchange's regulatory function for non-regulatory purposes, which further underscores the independence of the Exchange's regulatory function. The Exchange also believes that requiring that the number of Non-Industry Directors not be less than the number of Industry Directors and requiring that all Directors serving on the ROC be Non-Industry Directors would help to ensure that no single group of market participants will have the ability to systematically disadvantage other market participants through the exchange governance process, and would foster the integrity of the Exchange by providing unique, unbiased perspectives.

Moreover, the Exchange believes that the new corporate governance framework and related processes being proposed are consistent with Section 6(b)(5) of the Act because they are substantially similar to the framework and processes used by CBOE and C2, which have been well-established as fair and designed to protect investors and the public interest.[63] The Exchange believes that conforming its governance documents based on the documents of the CBOE and C2 exchanges would streamline the CBOE Holdings' U.S. securities exchanges' governance process, create equivalent governing standards among the exchanges and also provide clarity to its members, which is beneficial to both investors and the public interest.

To the extent there are differences between the current CBOE and C2 framework and the proposed Exchange framework, the Exchange believes the differences are reasonable. First, the Exchange believes it's reasonable to provide that in Run-Off Elections, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year instead of one vote per Trading Permit held, because the Exchange, unlike CBOE and C2, does not have Trading Permits and because other exchanges have similar practices.[64] The Exchange believes it's also reasonable not to require the establishment of an Advisory Board, as the Exchange desires flexibility in maintaining such a Committee, and is not statutorily required to maintain such a committee. Additionally, the Exchange notes that it currently does not have an Advisory Board. Lastly, the Exchange notes that it is reasonable to not require a standing exchange-level Appeals Committee because the Board still has the authority to appoint an Appeals Committee in the future as needed pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws and because an Appeals Committee is not statutorily required.

Finally, the proposed amendments to the rules as discussed above are non-substantive changes meant to merely update the Rules in light of the proposed changes to the current Bylaws and to relocate certain provisions to better conform the Exchange's governance documents to those of CBOE and C2.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of EDGX and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–BatsEDGX–2017–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR-BatsEDGX–2017–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

[63] *See e.g.,* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088); Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010); and Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017).

[64] *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGX–2017–35 and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18797 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[65] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form N–PX, SEC File No. 270–524, OMB Control No. 3235–0582.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 30b1–4 (17 CFR 270.30b1–4) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) requires every registered management investment company, other than a small business investment company registered on Form N–5 (''funds''), to file a report on Form N–PX not later than August 31 of each year. Funds use Form N–PX to file annual reports with the Commission containing their complete proxy voting record for the most recent twelve-month period ended June 30.

The Commission estimates that there are approximately 2,376 funds registered with the Commission, representing approximately 11,818 fund portfolios that are required to file Form N–PX reports. The 11,818 portfolios are comprised of approximately 7,111 portfolios holding equity securities, 3,249 portfolios holding no equity securities, and 1,458 portfolios holding fund securities (*i.e.,* fund of funds).[1] The currently approved burden of Form N–PX for portfolios holding equity securities is 7.2 hours per response, the current burden estimate for funds holding no equity securities is 0.17 hours (10 minutes) per response, and the current burden estimate for fund of funds is 1 hour per response. Therefore, the number of aggregate burden hours, when calculated using the current number of portfolios, is approximately 53,210 hours.[2] We continue to believe that these estimates for Form N–PX's current burden are appropriate. Based on the Commission's estimate of 53,210 burden hours and an estimated wage rate of approximately $345 per hour,[3] the total cost to reporting persons of the hour burden for filing Form N–PX is approximately $18.44 million.[4]

The estimated cost burden of Form N–PX is $1,000 in external costs per portfolio holding equity securities that is paid to third-party service providers. External costs for portfolios holding no equity securities have previously been estimated to be zero because portfolios holding no equity securities generally have no proxy votes to report and therefore do not require third-party service providers to assist with proxy voting and preparing reports on Form N–PX. The estimated cost burden of Form N–PX for fund of funds is estimated to be $100 per portfolio because fund of funds generally either have no proxy votes to report; or if proxy votes are reported, they are generally limited in the number of securities and the number of voting matters relative to portfolios holding equity securities. Therefore, the aggregate cost burden, when calculated using the current number of portfolios, is approximately $7.3 million in external costs.[5] We continue to believe that these estimates for Form N–PX's current cost burden are appropriate.

Estimates of average burden hours and costs are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of Form N–PX is mandatory. Responses to the collection of information will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

[1] The estimate of 2,376 funds is based on the number of management investment companies currently registered with the Commission. The Commission staff estimates that there are approximately 6,385 portfolios that invest primarily in equity securities, 726 ''hybrid'' or bond portfolios that may hold some equity securities, 2,831 bond portfolios that hold no equity securities, and 418 money market fund portfolios, and 1,458 fund of funds, for a total of 11,818 portfolios required to file Form N–PX reports. The staff has based its portfolio estimates on a number of publications. *See* Investment Company Institute, Trends in Mutual Fund Investing (April 2017); Investment Company Institute, Closed-End Fund Assets and Net Issuance (First Quarter 2017); Investment Company Institute, ETF Assets and Net Issuance (April 2017).

[2] (7,111 portfolios that hold equity securities × 7.2 hours per year) + (3,249 portfolios holding no equity securities × 0.17 hours per year) + (1,458 portfolios holding fund securities x 1 hour per year) = 53,210 hours.

[3] The hourly wage figure for a compliance attorney is from the Securities Industry and Financial Markets Association's Management & Professional Salaries in the Securities Industry 2013, modified by Commission staff to account for an 1800-hour work-year and inflation and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[4] 53,210 hours × $345 per hour = $18,357,288.

[5] (7,111 portfolios holding equity securities × $1,000 per year) + (3,249 portfolios holding no equity securities × $0 per year) + (1,458 fund of funds × $100) = $7,256,800.

Dated: August 31, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18858 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81499; File Nos. SR–BatsBZX–2017–37; SR–BatsEDGX–2017–23; SR–BOX–2017–17; SR–C2–2017–018; SR–CBOE–2017–041; SR–FINRA–2017–013; SR–ISE–2017–46; SR–IEX–2017–18; SR–MIAX–2017–20; SR–PEARL–2017–23; SR–NASDAQ–2017–055; SR–BX–2017–027; SR–Phlx–2017–43; SR–NYSE–2017–23; SR–NYSEArca–2017–57; SR–NYSEArca–2017–59; SR–NYSEMKT–2017–29; SR–NYSEMKT–2017–30]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; Financial Industry Regulatory Authority, Inc.; International Securities Exchange, LLC; Investors Exchange LLC; Miami International Securities Exchange LLC; MIAX PEARL, LLC; The NASDAQ Stock Market LLC; NASDAQ BX, Inc.; NASDAQ PHLX LLC; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT LLC; Notice of Filing of Amendment No. 1 by Bats BZX Exchange, Inc.; Bats EDGX Exchange, Inc.; BOX Options Exchange LLC; C2 Options Exchange, Incorporated; Chicago Board Options Exchange, Incorporated; Financial Industry Regulatory Authority, Inc.; Investors Exchange LLC; New York Stock Exchange LLC; NYSE Arca, Inc.; NYSE MKT LLC, of Amendment Nos. 1 and 2 by International Securities Exchange, LLC; The NASDAQ Stock Market LLC; NASDAQ BX, Inc.; and NASDAQ PHLX LLC, of Amendment No. 2 by MIAX PEARL, LLC, and of Amendment No. 3 by Miami International Securities Exchange LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Changes, as Modified by Amendments Thereto, To Eliminate Requirements That Will Be Duplicative of CAT**

August 30, 2017.

I. Introduction

On May 15, 2017, Bats BZX Exchange, Inc. (''Bats BZX''); Bats EDGX Exchange, Inc. (''Bats EDGX''); BOX Options Exchange LLC (''BOX''); C2 Options Exchange, Incorporated (''C2''); Chicago Board Options Exchange, Incorporated (''CBOE''); Financial Industry Regulatory Authority, Inc. (''FINRA''); International Securities Exchange, LLC (''ISE''); Investors Exchange LLC (''IEX''); Miami International Securities Exchange LLC (''MIAX''); MIAX PEARL, LLC (''PEARL''); NYSE Arca, Inc. (''NYSE Arca''); and NYSE MKT LLC (''NYSE MKT'') (n/k/a NYSE American LLC) [1] filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] proposed rule changes to eliminate or modify certain rules that require the collection or reporting of information that is duplicative of the information that will be collected by the Consolidated Audit Trail (''CAT'') established pursuant to the National Market System Plan contemplated by Rule 613 of Regulation NMS.[4] On May 22, 2017, the New York Stock Exchange LLC (''NYSE'') filed with the Commission a proposed rule change for the same purpose, and each of NYSE Arca [5] and NYSE MKT filed an additional proposed rule change for the same purpose. On May 26, 2017, the NASDAQ Stock Market LLC (''NASDAQ'') and NASDAQ PHLX LLC (''Phlx'') filed with the Commission proposed rule changes for the same purpose.[6] On May 30, 2017, NASDAQ BX, Inc. (''BX'') filed with the Commission a proposed rule change for the same purpose.[7] In this notice and order, all of these proposed rule changes are referred to collectively as the ''Systems Retirement Proposals.'' Bats BZX, Bats EDGX, BOX, BX, C2, CBOE, ISE, IEX, MIAX, PEARL, NASDAQ, NYSE, NYSE Arca, NYSE MKT, and Phlx are collectively referred to as the ''Exchanges,'' and, together with FINRA, are referred to as the ''SROs.''

On June 1, 2017, the proposed rule changes submitted by Bats BZX, Bats EDGX, BOX, C2, CBOE, FINRA, IEX, ISE, MIAX, and PEARL; both proposed rule changes submitted by NYSE MKT; and one of the proposed rule changes submitted by NYSE Arca were published for comment in the **Federal Register**.[8] On June 2, 2017, the proposed rule change submitted by NYSE and the other proposed rule change submitted by NYSE Arca were published for comment in the **Federal Register**.[9] On June 5, 2017, the proposed rule changes submitted by NASDAQ, BX, and Phlx were published for comment in the **Federal Register**.[10]

Four comments were submitted to File Number SR–FINRA–2017–013.[11]

On June 22, 2017, each of NASDAQ, BX, ISE, and Phlx filed an amendment

[1] *See* Securities Exchange Act Release No. 80283 (March 21, 2017), 82 FR 15244 (March 27, 2017) (SR–NYSEMKT–2017–14). The name change was not yet effective when NYSE MKT filed SR–NYSEMKT–2017–29 and SR–NYSEMKT–2017–30.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] 17 CFR 242.613.

[5] Effective August 17, 2017, NYSE Arca amended, among other things, certain rules of the Exchange to create a single rulebook. *See* Securities Exchange Act Release No. 81419 (August 17, 2017) (SR–NYSEArca–2017–40) (the ''Arca Merger Filing''). NYSE Arca rule text references in this notice and order reflect rule numbering changes as a result of the Arca Merger Filing.

[6] Nasdaq and Phlx initially filed proposed rule changes on May 15, 2017 (SR–NASDAQ–2017–050 and SR–PHLX–2017–38). On May 26, 2017, Nasdaq and Phlx withdrew these filings and submitted new proposed rule changes (SR–NASDAQ–2017–055 and SR–PHLX–2017–43).

[7] BX initially filed a proposed rule change on May 15, 2017 (SR–BX–2017–025). On May 30, 2017, BX withdrew that initial filing and submitted a new proposed rule change (SR–BX–2017–027).

[8] *See* Securities Exchange Act Release No. 80796 (May 26, 2017), 82 FR 25374 (SR–BatsBZX–2017–37) (''Bats BZX Notice''); Securities Exchange Act Release No. 80795 (May 26, 2017), 82 FR 25358 (SR–BatsEDGX–2017–23) (''Bats EDGX Notice''); Securities Exchange Act Release No. 80789 (May 26, 2017), 82 FR 25492 (SR–BOX–2017–17) (''BOX Notice''); Securities Exchange Act Release No. 80798 (May 26, 2017), 82 FR 25385 (SR–C2–2017–018) (''C2 Notice''); Securities Exchange Act Release No. 80797 (May 26, 2017), 82 FR 25429 (SR–CBOE–2017–041) (''CBOE Notice''); Securities Exchange Act Release No. 80783 (May 26, 2017), 82 FR 25423 (SR–FINRA–2017–013) (''FINRA Notice''); Securities Exchange Act Release No. 80788 (May 26, 2017), 82 FR 25400 (SR–IEX–2017–18) (''IEX Notice''); Securities Exchange Act Release No. 80787 (May 26, 2017), 82 FR 25469 (SR–ISE–2017–46) (''ISE Notice''); Securities Exchange Act Release No. 80790 (May 26, 2017), 82 FR 25366 (SR–MIAX–2017–20) (''MIAX Notice''); Securities Exchange Act Release No. 80792 (May 26, 2017), 82 FR 25436 (SR–PEARL–2017–23) (''PEARL Notice''); Securities Exchange Act Release No. 80791 (May 26, 2017), 82 FR 25362 (SR–NYSEArca–2017–59) (''NYSE Arca Notice 1''); Securities Exchange Act Release No. 80793 (May 26, 2017), 82 FR 25443 (SR–NYSEMKT–2017–29) (''NYSE MKT Notice 1''); Securities Exchange Act Release No. 80794 (May 26, 2017), 82 FR 25439 (SR–NYSEMKT–2017–30) (''NYSE MKT Notice 2'').

[9] *See* Securities Exchange Act Release No. 80799 (May 26, 2017), 82 FR 25635 (SR–NYSE–2017–23) (''NYSE Notice''); Securities Exchange Act Release No. 80800 (May 26, 2017), 82 FR 25639 (SR–NYSEArca–2017–57) (''NYSE Arca Notice 2'').

[10] *See* Securities Exchange Act Release No. 80813 (May 30, 2017), 82 FR 25820 (SR–NASDAQ–2017–055) (''NASDAQ Notice''); Securities Exchange Act Release No. 80814 (May 30, 2017), 82 FR 25872 (SR–BX–2017–027) (''BX Notice''); Securities Exchange Act Release No. 80811 (May 30, 2017), 82 FR 25863 (SR–Phlx–2017–43) (''Phlx Notice'').

[11] *See* letters from William H. Herbert, Managing Director, Financial Information Forum, dated June 22, 2017 (''FIF Letter''); Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated June 22, 2017 (''Thomson Reuters Letter''); Marc R. Bryant, Senior Vice President, Deputy General Counsel, Fidelity Investments, dated June 22, 2017 (''Fidelity Letter''); and Ellen Greene, Managing Director and Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA, dated June 23, 2017 (''SIFMA Letter'').

to its proposed rule change.[12] On July 14, 2017, the Commission extended the time period for Commission action on all of the Systems Retirement Proposals to August 30, 2017.[13]

On August 24, 2017, BOX submitted Amendment No. 1 to its proposed rule filing,[14] IEX submitted Amendment No. 1 to its proposed rule filing,[15] PEARL submitted Amendment No. 2 to its proposed rule filing,[16] and MIAX submitted Amendment No. 3 to its proposed rule filing.[17] On August 25, 2017, Bats BZX submitted Amendment No. 1 to its proposed rule filing,[18] Bats EDGX submitted Amendment No. 1 to its proposed rule filing,[19] BX submitted Amendment No. 1 to its proposed rule filing,[20] C2 submitted Amendment No. 1 to its proposed rule filing,[21] CBOE submitted Amendment No. 1 to its proposed rule filing,[22] FINRA submitted Amendment No. 1 to its proposed rule filing,[23] ISE submitted Amendment No. 2 to its proposed rule filing,[24] NASDAQ submitted Amendment No. 2 to its proposed rule filing,[25] NYSE submitted

[12] These amendments modified Section 2 of the Form 19b–4 submitted by each of NASDAQ, BX, ISE, and Phlx to state that on June 1, 2017, the exchange obtained the necessary approval from its Board of Directors for the proposed rule change. When NASDAQ, BX, ISE, and Phlx each filed Amendment No. 1 to their respective proposals with the Commission, they also submitted the Amendment No. 1 to the public comment file for each of their respective proposals.

[13] *See* Securities Exchange Act Release No. 81145, 82 FR 33533 (July 20, 2017).

[14] This amendment: (1) Added introductory language to BOX's COATS-related rules to clarify that the rules will be amended upon announcement by BOX that the CAT has achieved a sufficient level of accuracy and reliability; (2) modified rule text language for BOX's EBS rule and the rule regarding securities accounts and orders of market makers to clarify that BOX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after BOX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules; and (3) clarified that the accuracy and reliability standards discussed in its Systems Retirement Proposal apply to all of the rules discussed therein. When BOX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[15] This amendment: (1) Added introductory language to IEX's OATS rule series to clarify that the rules will be deleted upon announcement by IEX that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) modified IEX's EBS rule text language to clarify that IEX (or FINRA on behalf of IEX) will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS rule for trades reported to the CAT after IEX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the EBS rule; and (3) made two clarifying revisions to the Purpose section of its proposal. When IEX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[16] PEARL filed Amendment No. 1 to its proposed rule change on August 22, 2017. On August 24, 2017, PEARL withdrew Amendment No. 1 and replaced it with Amendment No. 2. Amendment No. 2 modified the rule text for PEARL's EBS rule (which is incorporated by reference from the MIAX rulebook) and its rule regarding market maker order and account information to clarify that PEARL will not request trade data or information, and members will not be required to provide trade data or information, pursuant to such rule for trades reported to the CAT after PEARL announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When PEARL filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

[17] MIAX filed Amendment No. 1 to its proposed rule change on August 22, 2017 and withdrew and replaced it with Amendment No. 2 on the same day. On August 24, 2017, MIAX withdrew Amendment No. 2 and replaced it with Amendment No. 3. Amendment No. 3 modified the rule text for MIAX's EBS rule and its rule regarding market maker order and account information to clarify that MIAX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to such rule for trades reported to the CAT after MIAX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When MIAX filed Amendment No. 3 to its proposal with the Commission, it also submitted Amendment No. 3 to the public comment file for its proposal.

[18] This amendment: (1) Added introductory language to BZX's rule regarding securities accounts and orders of market makers to clarify that the rules will be amended upon announcement by BZX that the CAT has achieved a sufficient level of accuracy and reliability; and (2) modified rule text language for BZX's EBS rule and the rule regarding furnishing of records to clarify that BZX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after BZX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When BZX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[19] This amendment: (1) Added introductory language to Bats EDGX's rule regarding securities accounts and orders of market makers to clarify that the rule will be amended upon announcement by Bats EDGX that the CAT has achieved a sufficient level of accuracy and reliability; and (2) modified rule text language for Bats EDGX's EBS rule and the rule regarding furnishing of records to clarify that Bats EDGX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after Bats EDGX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When Bats EDGX filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[20] This amendment: (1) Added introductory language to BX's OATS rule series to clarify that the rules will be deleted upon announcement by BX that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) added introductory language to BX's COATS-related rules to clarify that the rules will be amended upon announcement by BX that the CAT has achieved a level of accuracy and reliability sufficient to replace COATS; and (3) modified BX's EBS rule text and the language of Chapter VII, Section 7, to clarify that BX will not request trade data or information, and members will not be required to provide trade data or information, pursuant to EBS Rules or Chapter VII, Section 7, for trades reported to the CAT after BX announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When BX filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

[21] This amendment added introductory language to C2's rule regarding securities accounts and orders of market makers to clarify that the rule will be amended upon announcement by C2 that the CAT has achieved a sufficient level of accuracy and reliability. When C2 filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[22] This amendment: (1) Added introductory language to CBOE's COATS-related rules and rule regarding securities accounts and orders of market makers to clarify that the rules will be amended upon announcement by CBOE that the CAT has achieved a sufficient level of accuracy and reliability; and (2) modified rule text language for CBOE's EBS rule and the rule regarding complaints and investigations to clarify that CBOE will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after CBOE announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When CBOE filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[23] This amendment: (1) Added introductory language to FINRA's OATS rule series to clarify that the rules will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified FINRA's EBS rule text to clarify that FINRA will not request trade data or information, and members will not be required to provide trade data or information, pursuant to its EBS rules for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When FINRA filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[24] This amendment modified ISE's EBS rule text language to clarify that ISE will not request trade data or information, and members will not be required to provide trade data or information, pursuant to ISE's Rule 1404 for trades reported to the CAT after ISE announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the rule. When ISE filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

[25] This amendment: (1) Added introductory language to NASDAQ's OATS rule series to clarify that the rules will be deleted upon announcement by NASDAQ that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) added introductory language to NASDAQ's COATS-related rules to clarify that these rules will be amended upon announcement by NASDAQ that the CAT has achieved a level of accuracy and reliability sufficient to replace COATS; and (3) modified NASDAQ's EBS rule text and the language of Chapter VII, Section 7, to clarify that NASDAQ will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS Rules or Chapter VII, Section 7, for trades reported to the CAT after NASDAQ announces that it has

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Amendment No. 1 to its proposed rule filing,[26] NYSE Arca submitted Amendment No. 1 to each of its proposed rule filings,[27] NYSE MKT submitted Amendment No. 1 to each of its proposed rule filings,[28] and Phlx submitted Amendment No. 2 to its proposed rule filing.[29]

The Commission is publishing this notice and order to solicit comments on the proposed rule changes, as modified by the respective amendments thereto, from interested persons and to institute proceedings pursuant to Section 19(b)(2)(B) of the Act [30] to determine whether to approve or disapprove the proposed rule changes, as modified by the respective amendments thereto.[31]

II. Description of the Proposals, as Modified by Amendments Thereto

As required by the CAT NMS Plan, the Systems Retirement Proposals discuss: (1) The specific standards that will govern when SRO rules and related systems that are duplicative of CAT—including the Order Audit Trail System (''OATS''), the Consolidated Options Audit Trail System (''COATS''), and the Electronic Blue Sheets system (''EBS'')—will be modified or eliminated; (2) whether the availability of data from Small Industry Members in November of 2018 would facilitate duplicative systems retirement; and (3) the feasibility of granting exemptions from reporting to duplicative systems to individual Industry Members whose CAT reporting meets certain accuracy and reliability thresholds.

A. Specific Accuracy and Reliability Standards

1. OATS

FINRA's OATS rules require certain FINRA members to report a variety of data regarding transactions in OTC equity securities and NMS stocks to the system on a daily basis.[32] Several other SROs have their own OATS rules that mirror FINRA's rule or incorporate it by reference.[33] FINRA and the other SROs with OATS rules (the ''OATS SROs'') have proposed to delete their OATS rules from their respective rulebooks. As described in more detail below, these deletions will be implemented once CAT Data achieves certain pre- and post-correction error rates and certain qualitative criteria have been met.

In its Systems Retirement Proposal, FINRA stated that it believes that relevant error rates are the primary, but not the sole, metric by which to determine the CAT's accuracy and reliability and will serve as the baseline requirement needed before OATS can be retired to account for information being available in the CAT.[34]

FINRA noted that the Participants established an initial Error Rate, as defined in the Plan, of 5% on initially submitted data (*i.e.,* data as submitted by a CAT Reporter before any required corrections are performed).[35] The Participants noted in the Plan their expectation that ''error rates after reprocessing of error corrections will be de minimis.'' [36] The Participants based this Error Rate on their consideration of ''current and historical OATS Error Rates, the magnitude of new reporting requirements on the CAT Reporters and the fact that many CAT Reporters may have never been obligated to report data to an audit trail.'' [37]

In its Systems Retirement Proposal, FINRA expressed agreement with the Participants' conclusion that a 5% pre-correction threshold ''strikes the balance of adapting to a new reporting regime, while ensuring that the data provided to regulators will be capable of being used to conduct surveillance and market reconstruction, as well as having a sufficient level of accuracy to facilitate the retirement of existing regulatory reports and systems where possible.'' [38] However, FINRA believed that, when assessing the accuracy and reliability of the data for the purposes of retiring OATS, the error thresholds should be measured in more granular ways and should also include minimum error rates of post-correction data, which

determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules. When NASDAQ filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

[26] This amendment: (1) Added introductory language to NYSE's OATS rules to clarify that they will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified NYSE's EBS rule text to clarify that NYSE will not request trade data or information, and member organizations will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to FINRA's EBS rules. When NYSE filed Amendment No. 1 to its proposal with the Commission, it also submitted Amendment No. 1 to the public comment file for its proposal.

[27] Amendment No. 1 to SR–NYSEArca–2017–59: (1) Added introductory language to NYSE Arca's OATS rules to clarify that the OATS rules will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified NYSE Arca's EBS rule text to clarify that NYSE Arca will not request trade data or information, and ETP Holders, OTP Holders, OTP Firms, and associated persons of ETP Holders and OTP Firms (as defined in NYSE Arca's rulebook) will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to FINRA's EBS rules. Amendment No. 1 to SR–NYSEArca–2017–57 added introductory language to NYSE Arca's COATS-related rules to clarify that these rules will be amended upon announcement by NYSE Arca, in conjunction with the other options exchanges, that CAT has achieved a level of accuracy and reliability sufficient to replace COATS. When NYSE Arca filed Amendment No. 1 to each of its proposed rule changes with the Commission, it also submitted Amendment No. 1 to the public comment file for each respective proposed rule change.

[28] Amendment No. 1 to SR–NYSEMKT–2017–30: (1) Added introductory language to NYSE MKT's OATS rules to clarify that they will be deleted upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; and (2) modified NYSE MKT's EBS rule text to clarify that NYSE MKT will not request trade data or information, and member organizations and ATP Holders (as defined in NYSE MKT's rulebook) will not be required to provide trade data or information, pursuant to the rule for trades reported to the CAT after FINRA announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to FINRA's EBS rules. Amendment No. 1 to SR–NYSEMKT–2017–29 added introductory language to NYSE MKT's COATS-related rules to clarify that the COATS-related rules will be amended upon announcement by NYSE MKT, in conjunction with the other options exchanges, that CAT has achieved a level of accuracy and reliability sufficient to replace COATS. When NYSE MKT filed Amendment No. 1 to each of its proposed rule changes with the Commission, it also submitted Amendment No. 1 to the public comment file for each respective proposed rule change.

[29] This amendment: (1) Added introductory language to Phlx OATS rule series to clarify that the rules will be deleted upon announcement by Phlx that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) added introductory language to Phlx's COATS-related rules to clarify that the rules will be amended upon announcement by Phlx that the CAT has achieved a level of accuracy and reliability sufficient to replace COATS; (3) modified Phlx's EBS rule text and language in Phlx Rule 1022 to clarify that Phlx will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS Rule or Rule 1022 for trades reported to the CAT after Phlx announces that is has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to these rules; and (4) made a conforming change to Phlx Option Floor Procedure Advices and Order and Decorum Regulations C–2 to delete rule text that corresponds to rule text that Phlx previously proposed to delete in Rule 1063. When Phlx filed Amendment No. 2 to its proposal with the Commission, it also submitted Amendment No. 2 to the public comment file for its proposal.

[30] 15 U.S.C. 78s(b)(2)(B).

[31] For purposes of this notice and order, capitalized terms are defined as set forth in the Notices or in the CAT NMS Plan unless otherwise specified.

[32] *See* FINRA Rule 7400.

[33] *See* BX Rule 6950, IEX Rule 11.420, NASDAQ Rule 7000A Series, NYSE Rule 7400 Series, NYSE Arca Rule 6–E, and NYSE MKT Rule 7400—Equities Series, Phlx Rule 3400 series.

[34] *See* FINRA Notice, 82 FR at 25424.

[35] *See* CAT NMS Plan, Appendix B, Section A.3(b).

[36] CAT NMS Plan, Appendix C, Section A.3(b), at n. 102.

[37] CAT NMS Plan, Appendix C, Section A.3(b).

[38] *Id. See also* FINRA Notice, 82 FR at 25424.

represents the data most likely to be used by FINRA to conduct surveillance. Although FINRA is proposing to measure the appropriate error rates in the aggregate rather than firm-by-firm, FINRA expressed the belief that the error rates for equity securities should be measured separately from options since options orders are not currently reported regularly or included in OATS.[39]

FINRA has proposed that, before OATS could be retired, the CAT would generally need to achieve a sustained error rate for Industry Member reporting in each of the categories below:

• *Rejection Rates and Data Validations.* Data validations for the CAT, while not expected to be designed the same as OATS, must be functionally equivalent to OATS in accordance with the CAT NMS Plan (*i.e.,* the same types of basic data validations must be performed by the Plan Processor to comply with the CAT NMS Plan requirements). Appendix D of the Plan, for example, requires that certain file validations[40] and syntax and context checks be performed on all submitted records.[41] If a record does not pass these basic data validations, it must be rejected and returned to the CAT Reporter to be corrected and resubmitted.[42] The specific validations can be determined only after the Plan Processor has finalized the Industry Member Technical Specifications; however, the Plan also requires the Plan Processor to provide daily statistics on rejection rates after the data has been processed, including the number of files rejected and accepted, the number of order events accepted and rejected, and the number of each type of report rejected.[43] FINRA is proposing that, over the 180-day period, aggregate rejection rates (measured separately for equities and options) must be no more than 5% pre-correction or 2% post-correction across all CAT Reporters.

• *Intra-Firm Linkages.* The Plan requires that ''the Plan Processor must be able to link all related order events from all CAT Reporters involved in the lifecycle of an order.'' [44] At a minimum, this requirement includes the creation of an order lifecycle between ''[a]ll order events handled within an individual CAT Reporter, including orders routed to internal desks or departments with different functions (*e.g.,* an internal ATS).'' [45] FINRA is proposing that aggregate intra-firm linkage rates across all Industry Member Reporters must be at least 95% pre-correction and 98% post-correction.

• *Inter-Firm Linkages.* The order linkage requirements in the Plan also require that the Plan Processor be able to create the lifecycle between orders routed between broker-dealers.[46] FINRA is proposing that at least a 95% pre-correction and 98% post-correction aggregate match rate be achieved for orders routed between two Industry Member Reporters.

• *Order Linkage Rates.* In addition to creating linkages within and between broker-dealers, the Plan also includes requirements that the Plan Processor be able to create lifecycles to link various pieces of related orders.[47] For example, the Plan requires linkages between customer orders and ''representative'' orders created in firm accounts for the purpose of facilitating a customer order, various legs of option/equity complex orders, riskless principal orders, and orders worked through average price accounts.[48] FINRA is proposing that there be at least a 95% pre-correction and 98% post-correction linkage rate for multi-legged orders (*e.g.,* related equity/options orders, VWAP orders, riskless principal transactions).

• *Exchange and TRF/ORF Match Rates.* The Plan requires that an order lifecycle be created to link ''[o]rders routed from broker-dealers to exchanges'' and ''[e]xecuted orders and trade reports.'' [49] FINRA is proposing at least a 95% pre-correction and 98% post-correction aggregate match rate to each equity exchange for orders routed from Industry Members to an exchange and, for over-the-counter executions, the same match rate for orders linked to trade reports.

FINRA believes that an error rate of 5% or lower, measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5),[50] should be attained across a 180-day period before retiring OATS. FINRA believes that this time period is necessary to reveal any errors that could manifest themselves only after surveillance patterns and other queries have been run and to confirm that the Plan Processor is meeting its obligations and performing its functions adequately. FINRA would not require a maximum 5% pre-correction error rate and 2% post-correction error rate each day for 180 consecutive days. FINRA's Systems Retirement Proposal also provides that, during the 180-day period over which the thresholds are calculated, FINRA's use of the data in the CAT must confirm that (i) usage over that time period has not revealed material issues that have not been corrected, (ii) the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and (iii) the Plan Processor is sufficiently meeting all of its obligations under the Plan.

Finally, FINRA notes that it will implement the deletion of its OATS rules on a date to be announced in a *Regulatory Notice* once FINRA concludes the thresholds for accuracy and reliability described above have been met.[51] In addition, FINRA added proposed introductory language to its OATS rules in its Amendment No. 1 that clarified that, if approved, the OATS rules will be deleted from its rulebook upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS.

In their Systems Retirement Proposals, some of the OATS SROs[52] proposed to assess when to eliminate their respective OATS rules based on the same accuracy and reliability standards as proposed by FINRA, and to announce the implementation date of the elimination of their OATS rules via regulatory notice once each has concluded that these standards have

[39] *See* FINRA Notice, 82 FR at 25424.

[40] *See* CAT NMS Plan, Appendix D, Section 7.2. The Plan requires the Plan Processor to confirm that file transmission and receipt are in the correct formats, including validation of header and trailers on the submitted report, confirmation of a valid SRO-Assigned Market Participant Identifier, and verification of the number of records in the file. *See id.*

[41] *See id.* The Plan notes that syntax and context checks would include format checks (*i.e.,* that data is entered in the specified format); data type checks (*i.e.,* that the data type of each attribute conforms to the specifications); consistency checks (*i.e.,* that all attributes for a record of a specified type are consistent); range/logic checks (*i.e.,* that each attribute for every record has a value within specified limits and the values provided are associated with the event type they represent); data validity checks (*i.e.,* that each attribute for every record has an acceptable value); completeness checks (*i.e.,* that each mandatory attribute for every record is not null); and timeliness checks (*i.e.,* that the records were submitted within the submission timelines). *See id.*

[42] *See id.*

[43] *See id.*

[44] CAT NMS Plan, Appendix D, Section 3.

[45] *Id.*

[46] *See id.*

[47] *See id.*

[48] *See id.*

[49] *Id.*

[50] The Plan requires the Plan Processor to ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, Appendix C, Section A.2(a).

[51] *See* FINRA Notice, 82 FR at 25426.

[52] BX, IEX, NASDAQ, and Phlx.

been met.[53] Other OATS SROs [54] proposed to implement the elimination of their OATS rules via regulatory notice once FINRA has determined that the accuracy and reliability standards proposed by FINRA had been met, and FINRA publishes a notice announcing the date it will retire its OATS rules.[55]

2. COATS

Bats BZX, Bats EDGX, BX, BOX, CBOE, C2, NASDAQ, NYSE Arca, NYSE MKT, and Phlx (collectively, the ''COATS SROs'') utilize COATS to collect and review data regarding orders, quotes, and transactions in listed options.[56] In their Systems Retirement Proposals, the COATS SROs noted that the Participants have provided COATS technical specifications to the CAT Plan Processor for use in developing the Technical Specifications for the CAT, and that the Participants are working with the Plan Processor to include the necessary COATS data elements in the CAT Technical Specifications.[57] Accordingly, the COATS SROs have proposed to eliminate COATS once CAT is operational and CAT Data is sufficiently accurate and reliable for the COATS SROs to perform the regulatory functions that they now perform via COATS. The COATS SROs also have proposed to eliminate certain provisions of their rules that reference COATS or implement COATS requirements [58] and/or to replace certain provisions that implement COATS requirements with others that provide for compliance with CAT requirements.[59]

Similar to the standards described in the Systems Retirement Proposals that discuss eliminating OATS-related rules, the COATS SROs believe that, before COATS can be retired and the proposed modifications to COATS-related rules can be implemented, the CAT would need to achieve an aggregate average error rate of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[60] The 5% and 2% error rates would be measured across a 180-day period. For purposes of COATS retirement, the COATS SROs have proposed to measure the error rates for CAT records relating only to listed options and not to equities, as only options orders and transactions are currently subject to COATS reporting. As with the proposals to retire OATS, the COATS SROs believe that, during the minimum 180-day period during which the error thresholds are calculated, their use of CAT Data must confirm that (1) there are no material issues that have not been corrected, (2) the CAT includes all data necessary to allow the COATS SROs to continue to meet their surveillance obligations, and (3) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. Each COATS SRO also noted that, if the Commission approves its proposed rule change, it would announce the date for modification or elimination, as applicable, of reporting requirements and the implementation date of the proposed rule changes via regulatory notices or circulars that would be published once the thresholds for accuracy and reliability described above have been met and the Plan Processor is sufficiently meeting all of its obligations under the Plan.[61] In amendments to their respective filings, each COATS SRO also added introductory language to each of the rules that it has proposed to modify in connection with the retirement of COATS specifying that the rule will be amended upon announcement by the SRO that the CAT has achieved a sufficient level of accuracy and reliability.[62]

[53] *See* BX Notice, 82 FR at 25873–74; IEX Notice, 82 FR at 25401–02; NASDAQ Notice, 82 FR at 25821–22; Phlx Notice, 82 FR at 25864. Similar to FINRA, each of these Exchanges also added proposed introductory language to its OATS rules to clarify that, if approved, the OATS rules will be deleted from its rulebook upon announcement by the Exchange that CAT has achieved a level of accuracy and reliability sufficient to replace OATS. *See* Amendment No. 1 to IEX Notice and Amendment No. 2 to BX Notice, NASDAQ Notice, and Phlx Notice.

[54] NYSE, NYSE Arca, and NYSE MKT.

[55] *See* NYSE Notice, 82 FR at 25636–37; NYSE Arca Notice 1, 82 FR at 25363–64; NYSE MKT Notice 2, 82 FR at 25440. Similar to FINRA, each of NYSE, NYSE Arca, and NYSE MKT also added proposed introductory language to its OATS rules to clarify that, if approved, the OATS rules will be deleted from its rulebook upon announcement by FINRA that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS. *See* Amendment No. 1 to NYSE Notice, NYSE Arca Notice 1, and NYSE MKT Notice 2.

[56] COATS was developed to comply with an order of the Commission requiring CBOE, in coordination with other exchanges, to design and implement a consolidated audit trail to ''enable the options exchanges to reconstruct markets promptly, effectively surveil them and enforce order handling, firm quote, trade reporting and other rules.'' Securities Exchange Act Release No. 43268, Section IV.B.e.(v) (September 11, 2000) (Administrative Proceeding File No. 3–10282) (Order Instituting Public Administrative Proceedings Pursuant to Sections 19(h)(1) of the Act, Making Findings and Imposing Remedial Sanctions).

[57] *See* Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25492; BX Notice, 82 FR at 25876; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25430; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25444; NASDAQ Notice, 82 FR at 25824; Phlx Notice, 82 FR at 25868.

[58] *See* CBOE Notice, 82 FR at 25430 (proposing to eliminate, from CBOE Rule 6.24, references to and background on COATS as well as COATS requirements regarding the reporting of the time of receipt of an execution report); NYSE Arca Notice 2, 82 FR at 25640 (proposing to eliminate the COATS-related clock synchronization requirements of NYSE Arca Rule 6.20–O).

[59] *See* BX Notice, 82 FR at 25876 (proposing to eliminate the COATS-based information reporting requirements of BX Chapter V, Section 7, and to replace them with a requirement that BX members maintain order records consisting of the elements required by BX's CAT Compliance Rule); Amendment No. 1 to BOX Notice (proposing to eliminate the COATS-based data requirements of BOX Rule 7120(b) and to replace them with a requirement that order tickets consist of the elements required by BOX's CAT Compliance Rule); CBOE Notice, 82 FR at 25430 (proposing to amend various interpretations and policies of CBOE Rule 6.24 to require that certain systems and data reports comply with the functionality and format requirements of CAT rather than COATS); Nasdaq Notice, 82 FR at 25824 (proposing to eliminate the COATS-based information reporting requirements of Nasdaq Chapter V, Section 7, and to replace them with a requirement that Nasdaq members maintain order records consisting of the elements required by Nasdaq's CAT Compliance Rule); NYSE Arca Notice 2, 82 FR at 25640 (proposing to amend NYSE Arca Rule 6.68–O to require order records to include the elements required by NYSE Arca's CAT Compliance Rule rather than the elements required under COATS); NYSE MKT Notice 1, 82 FR at 25444 (proposing to amend NYSE MKT Rule 956NY to require order records to include the elements required by NYSE MKT's CAT Compliance Rule rather than the elements required under COATS); Phlx Notice, 82 FR at 25868 and Amendment No. 2 to Phlx Notice (proposing to amend Phlx Rule 1063, which implements certain reporting requirements related to COATS, and Option Floor Procedure Advices and Order and Decorum Regulation C–2, which repeats these requirements and imposes a schedule of fines for violating them, by replacing the COATS requirements with provisions stating that order records must include the elements enumerated in Phlx's CAT Compliance Rule). *See also* Bats EDGX Notice, 82 FR at 25359; BZX Notice, 82 FR at 25375; C2 Notice, 82 FR at 25386 (noting that BZX, EDGX, and C2 do not have any specific rules or requirements related to COATS but refer to the retirement of COATS in their filings to be consistent with the other options exchanges).

[60] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360–61; BOX Notice, 82 FR at 25493–94; BX Notice, 82 FR at 25877; C2 Notice, 82 FR at 25387–88; CBOE Notice, 82 FR at 25432; NYSE Arca Notice 2, 82 FR at 25641; NYSE MKT Notice 1, 82 FR at 25445; NASDAQ Notice, 82 FR at 25825; Phlx Notice, 82 FR at 25869.

[61] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 at FR 25361; CBOE Notice, 82 FR at 25432; C2 Notice, 82 FR at 25388 (all stating that the proposed modifications will be implemented ''once the Exchange (and other options exchanges with respect to COATS and EBS) determines that the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan''); BX Notice, 82 FR at 25877, NASDAQ Notice, 82 FR at 25826, and Phlx Notice, 82 FR at 25869 (all stating that the proposed modifications will be implemented ''once [the Exchange] concludes the thresholds for accuracy and reliability described above have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan''); BOX Notice, 82 FR at 25494, NYSE Arca Notice 2, 82 FR at 25640, and NYSE MKT Notice 1, 82 FR at 25444 (all stating that the proposed modifications will be implemented ''once the options exchanges determine that the thresholds for accuracy and reliability described . . . have been met and that the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan'').

[62] *See* Amendment No. 1 to Bats BZX Notice, Bats EDGX Notice, BOX Notice, C2 Notice, CBOE Notice,

3. EBS

Each of Bats BZX, Bats EDGX, BX, BOX, CBOE, C2, FINRA, IEX, ISE, MIAX, PEARL, Phlx, NASDAQ, NYSE, NYSE Arca, and NYSE MKT (each an ''EBS SRO'') has a rule requiring a member, upon request by the SRO, to provide trading information using the electronic blue sheets (''EBS'') system in such format as may be prescribed by the SRO.[63]

According to the EBS SROs, after broker-dealer reporting to the CAT begins, CAT will contain much of the data with respect to transactions in CAT-Eligible Securities that an SRO could otherwise have requested via the EBS system.[64] Consequently, the EBS SROs would no longer need to request information pursuant to the EBS Rules for transactions in CAT-Eligible Securities after such time as appropriate thresholds for accuracy and reliability, including for customer and account information, are achieved. However, the EBS SROs do not believe that the EBS rules can be completely removed from their rulebooks and the EBS system completely retired, because EBS requests might have to be made to obtain information about transactions occurring before CAT has attained an appropriate threshold for accuracy and reliability. Some of the EBS SROs[65] also noted that their EBS rules apply to transactions in non-CAT-Eligible Securities, such as fixed-income securities. Thus, the rules would have to remain in effect with respect to those transactions.

Each of the EBS SROs proposed to add new language to its EBS rule to clarify how it will request data under these rules after members are reporting to the CAT.[66] Specifically, the proposed new language notes that the SRO will not request trade data or information under the rule, and members will not be required to provide trade data or information under the rule, for trades reported to the CAT after the SRO (or, in some cases, FINRA) announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the EBS rule.[67]

As noted above, the EBS SROs believe (or reiterate FINRA's belief) that the CAT must meet certain minimum accuracy and reliability standards before it, or FINRA, could rely on the CAT Data to replace existing regulatory tools, including EBS. Therefore, the EBS SROs propose to implement the new rule text related to their EBS rules only after CAT achieves certain accuracy thresholds. The EBS SROs proposed similar standards to those for eliminating OATS-related rules set forth above, as well as specific accuracy standards for customer and account information.[68] In addition, each of the EBS SROs states that it (or, in some cases, FINRA) can rely on CAT Data to replace EBS requests only after it has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow it or FINRA to continue to meet its surveillance obligations, and confirmed that the Plan Processor is fulfilling its obligations under the Plan.[69]

4. Other Rules

Certain Exchanges proposed to amend other reporting rules that they have determined are duplicative of CAT requirements. BatsBZX, BatsEDGX, BOX, BX, C2, CBOE, MIAX, PEARL, Phlx, and NASDAQ currently have rules requiring certain market participants (*e.g.,* specialists and market makers) to report certain account or order information for accounts over which the market participant engages in trading activities or exercises investment discretion.[70] These Exchanges stated

NYSE Arca Notice 2, NYSE MKT Notice 1; and Amendment No. 2 to BX Notice, NASDAQ Notice, and Phlx Notice.

[63] *See* Bats BZX Rule 24.4; Bats EDGX Rule 24.4; BOX Rule 10040; BX Equity Rule 8211; BX Options Rule Chapter IX, Section 4; C2 Chapter 15 (incorporating CBOE Rule 15.7 by reference); CBOE Rule 15.7; IEX Rule 8.220; ISE Rule 1404; FINRA Rules 8211 and 8213; MIAX Rule 804; Nasdaq Equity Rule 8211; Nasdaq Options Rule Chapter IX, Section 4; NYSE Rule 8211; NYSE Arca Rule 10.2(e); NYSE MKT Rule 8211; Phlx Rule 785; PEARL Rule 804. PEARL notes that PEARL Rule 804 is incorporated by reference from the rules in MIAX rulebook Chapter VIII. *See* PEARL Notice, 82 FR at 25437, n. 14.

[64] *See* Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25875; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25431; FINRA Notice, 82 FR at 25426; IEX Notice, 82 FR at 25403; ISE Notice, 82 FR at 25470; MIAX Notice, 82 FR at 25367; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25364; NYSE MKT Notice 2, 82 FR at 25442; NASDAQ Notice, 82 FR at 25823; PEARL Notice, 82 FR at 25437; Phlx Notice, 82 FR at 25866.

[65] *See* Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359–60; BX Notice, 82 FR at 25875; CBOE Notice, 82 FR at 25431; C2 Notice, 82 FR at 25386–87; FINRA Notice, 82 FR at 25426; Phlx Notice, 82 FR at 25867 ; NASDAQ Notice, 82 FR at 25823; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25365; and NYSE MKT Notice 2, 82 FR at 25442.

[66] *See* Amendment No. 1 to Bats BZX Notice, Bats EDGX Notice, BOX Notice; C2 Notice, CBOE Notice, FINRA Notice, IEX Notice, NYSE Notice, NYSE Arca Notice 1, and NYSE MKT Notice 2; Amendment No. 2 to BX Notice, ISE Notice, NASDAQ Notice, PEARL Notice, and Phlx Notice; and Amendment No. 3 to MIAX Notice.

[67] *See* proposed revisions to Bats BZX Rule 24.4, as modified by Amendment No. 1; proposed revisions to Bats EDGX Rule 24.4, as modified by Amendment No. 1; proposed Supplementary Material to BX Equity Rule 8211, as modified by Amendment No. 2; proposed Supplementary Material to BX Options Rule Chapter IX, Section 4, as modified by Amendment No. 2; proposed Interpretive Material to BOX Rule 10040, as modified by Amendment No. 1; C2 Chapter 15 (incorporating by reference the proposed revisions to CBOE Rule 15.7); proposed revisions to CBOE Rule 15.7, as modified by Amendment No. 1; proposed Supplementary Material to FINRA Rules 8211 and 8213, as modified by Amendment No. 1; proposed Supplementary Material .01 to IEX Rule 8.220, as modified by Amendment No. 1; proposed Supplementary Material to ISE Rule 1404, as modified by Amendment No. 2; proposed Interpretation and Policy .01 to MIAX Rule 804, as modified by Amendment No. 3; proposed Supplementary Material to Phlx Rule 785, as modified by Amendment No. 2; proposed Supplementary Material to Nasdaq Equity Rule 8211, as modified by Amendment No. 2; proposed Supplementary Material to Nasdaq Options Rule Chapter IX Section 4, as modified by Amendment No. 2; proposed Supplementary Material .01 to NYSE Rule 8211, as modified by Amendment No. 1; proposed Commentary .01(E) to NYSE Arca Rule 10.2, as modified by Amendment No. 1; proposed Supplementary Material .01 to NYSE MKT Rule 8211, as modified by Amendment No. 1; proposed Interpretation and Policy .01 to PEARL Rule 804, as modified by Amendment No. 2.

[68] *See* BX Notice, 82 FR at 25876; Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25493; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25431; IEX Notice, 82 FR at 25403; ISE Notice, 82 FR at 25470–71; MIAX Notice, 82 FR at 25367–68; NASDAQ Notice, 82 FR at 25823–24; PEARL Notice, 82 FR at 25437–38; and Phlx Notice, 82 FR at 25866–68, respectively (stating that each SRO will assess whether ''an acceptable accuracy rate for customer and account information'' has been reached); FINRA Notice, 82 FR at 25426; NYSE Notice, 82 FR at 25638; NYSE Arca Notice 1, 82 FR at 25365; and NYSE MKT Notice 2, 82 FR at 25442, respectively (stating that FINRA will assess whether ''an accuracy rate for customer and account information of 95% for pre-corrected data and 98% for post-correction data'' has been reached).

[69] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360–61; BOX Notice, 82 FR at 25494; BX Notice, 82 FR at 25876; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25432; FINRA Notice, 82 FR at 25426; IEX Notice, 82 FR at 25403; ISE Notice, 82 FR at 25471; MIAX Notice, 82 FR at 25368; NYSE Notice, 82 FR at 25636; NYSE Arca Notice 1, 82 FR at 25365; NYSE MKT Notice 2, 82 FR at 25442; NASDAQ Notice, 82 FR at 25824; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25868. NYSE, NYSE Arca, and NYSE MKT will implement this change by regulatory notice once FINRA publishes a notice announcing a date that it will retire its EBS Rules and thus will rely on FINRA's conclusion that the described accuracy and reliability thresholds have been met and the CAT Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan. *See* NYSE Notice, 82 FR at 25636; NYSE Arca Notice 1, 82 FR at 25365; NYSE MKT Notice 2, 82 FR at 25442.

[70] *See* Bats BZX Rule 22.7 and Interpretation and Policy .01 to Bats BZX Rule 22.7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); Bats EDGX Rule 22.7 and Interpretation and Policy .01 to Bats EDGX Rule 22.7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); BOX Rule 8060 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); BX Options Rule

Continued

that, once broker-dealers are reporting to CAT, CAT will contain some of the data the Exchanges would otherwise have requested under these rules.[71] Similar to the proposed revisions to the EBS rules, some of the Exchanges have proposed to add new text to these order and account identification rules stating that the Exchange will not request information under the rule, and members will not be required to provide information under the rule, for trades reported to CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the rule.[72] Other Exchanges have proposed to revise these rules by deleting specific reporting requirements that are duplicative of CAT while retaining their position reporting requirements, which are not duplicative of CAT.[73] In their respective amendments, these Exchanges proposed to add introductory language to these rules to clarify that the rules will be amended upon announcement by the Exchange that the CAT has achieved a sufficient level of accuracy and reliability.[74]

In addition, CBOE and EDGX currently require members to submit to the Exchange stock transaction information for each Qualified Contingent Cross order executed at the Exchange.[75] CAT will require exchange members to report stock transaction information. Therefore, CBOE and EDGX intend to eliminate this reporting requirement in accordance with the proposed timeline and standards below.

These Exchanges proposed standards for when the proposed modifications to these reporting rules will be implemented that are similar to those for eliminating OATS-related rules set forth above. Accordingly, these Exchanges proposed that CAT would need to achieve a sustained error rate for a period of at least 180 days of 5% or lower measured on a pre-correction or as-submitted basis, and 2% or lower on a post-correction basis (measured at T+5).[76] These Exchanges have proposed to measure the 5% pre-correction and 2% post-correction thresholds by averaging the error rate across the period, not requiring a 5% pre-correction and 2% post-correction maximum each day for 180 consecutive days. In addition, each of these Exchanges stated that it can rely on CAT Data to replace information required to be reported under duplicative rules only after it has determined that its usage of the CAT Data over a 180-day period has not revealed material issues that have not been corrected, confirmed that the CAT includes all data necessary to allow it to continue to meet its surveillance obligations, and confirmed that the CAT Plan Processor is fulfilling its obligations under the CAT NMS Plan.[77]

B. Small Industry Member Data Availability

As noted above, the CAT NMS Plan requires the SROs, in their Systems Retirement Proposals, to address ''whether the availability of certain data from Small Industry Members two years after the Effective Date would facilitate a more expeditious retirement of duplicative systems.'' [78]

In its Systems Retirement Proposal, FINRA stated its view that there is no effective way to retire OATS until all current OATS reporters are reporting to the CAT and that having data from Small Industry Members currently reporting to OATS available two years after the Effective Date rather than three would ''substantially facilitate a more expeditious retirement of OATS.'' [79] Therefore, FINRA supports an amendment to the Plan that would require current OATS reporters that are Small Industry Members to report to CAT two years after the Effective Date (instead of three) and stated that it intends to work with the other SROs to propose such an amendment to the Plan.[80]

FINRA has identified approximately 300 member firms that currently report to OATS and meet the definition of ''Small Industry Member.'' According to FINRA, only ten of these firms submit information to OATS on their own behalf, and eight of those ten firms report very few records to OATS.[81] The

Chapter VII, Section 7 and Commentary .01 to BX Options Rule Chapter VII, Section 7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); C2 Rule 8.7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); CBOE Rule 8.9 and Interpretation and Policy .07 to CBOE Rule 8.9 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); MIAX Rule 607 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); Nasdaq Options Rule Chapter VII, Section 7 and Commentary .01 to Nasdaq Options Rule Chapter VII, Section 7 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); PEARL Rule 606 and Interpretation and Policy .01 to PEARL Rule 606 (requiring market makers to identify accounts and report orders, and specifying requirements for joint accounts); Phlx Options Rule 1022 and Commentary .01 and .02 to Phlx Options Rule 1022 (requiring specialists and market makers to identify accounts and, with respect to options in a foreign currency, make available books and records concerning transactions).

[71] *See* Bats BZX Notice, 82 FR at 25375; Bats EDGX Notice, 82 FR at 25359; BOX Notice, 82 FR at 25492; BX Notice at 25875; C2 Notice, 82 FR at 25386; CBOE Notice, 82 FR at 25431; MIAX Notice, 82 FR at 25367; NASDAQ Notice, 82 FR at 25823; PEARL Notice, 82 FR at 25437; Phlx Notice, 82 FR at 25866.

[72] *See* proposed Interpretive Material 8060–1 to BOX Rule 8060, as modified by Amendment No. 1; proposed Commentary .02 to BX Options Rule Chapter VII, Section 7, as modified by Amendment No. 2; proposed Interpretation and Policy .01 to MIAX Rule 607, as modified by Amendment No. 3; proposed Commentary .02 to Nasdaq Options Rule Chapter VII, Section 7, as modified by Amendment No. 2; proposed Interpretation and Policy .02 to PEARL Rule 606, as modified by Amendment No. 2; proposed Commentary .03 to Phlx Options Rule 1022, as modified by Amendment No. 2. In addition, BZX, CBOE, and EDGX proposed language for other rules that require the furnishing of data similar to the proposed revisions to the EBS rules—that is, that they will not request information for trades reported to the CAT after each has announced that it has determined that CAT is sufficiently accurate and reliable. *See* Amendment No. 1 to BZX Notice (proposing to add such language to Interpretation and Policy .02 to BZX Rule 4.2); Amendment No. 1 to EDGX Notice (proposing to add such language to Interpretation and Policy .02 to EDGX Rule 4.2); Amendment No. 1 to CBOE Notice (proposing to add such language to Interpretation and Policy .04 to CBOE Rule 17.2).

[73] *See* proposed revisions to Bats BZX Rule 22.7(b) and Interpretation and Policy .01 to Bats BZX Rule 22.7 (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders); proposed revisions to Bats EDGX Rule 22.7(b) and Interpretation and Policy .01 to Bats EDGX Rule 22.7 (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders); proposed revisions to C2 Rule 8.7(b) (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders); proposed revisions to CBOE Rule 8.9(b) and Interpretation and Policy .07 to CBOE Rule 8.9 (proposing to replace requirement that market makers report orders with requirement that market makers report positions and eliminate required elements of report pertaining to orders).

[74] *See* Amendment No. 1 to each of Bats BZX Notice, Bats EDGX Notice, C2 Notice, and CBOE Notice.

[75] *See* CBOE Notice, 82 FR at 25431; EDGX Notice, 82 FR at 25360.

[76] The Plan requires the Plan Processor to ensure that regulators have access to corrected and linked order and Customer data by 8:00 a.m. Eastern Time on T+5. *See* CAT NMS Plan, at C–15.

[77] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360–61; BX Notice, 82 FR at 25876; BOX Notice, 82 FR at 25494; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25432; MIAX Notice, 82 FR at 25368; NASDAQ Notice, 82 FR at 25824; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25867–68.

[78] CAT NMS Plan, Appendix C, Section C.9.

[79] FINRA Notice, 82 FR at 25425.

[80] FINRA notes that the 180-day timeframes discussed above with respect to usage of the data and calculation of error rates would apply to data reported to the CAT by Small Industry Members that are reporting to OATS. If an amendment to the Plan to accelerate the reporting requirement for those firms is not approved, the retirement of OATS could not be accomplished until at least 180 days after Small Industry Members begin reporting, which is currently scheduled to begin in November 2019. *See* FINRA Notice, 82 FR at 25425.

[81] *See* FINRA Notice, 82 FR at 25425 (noting that in one recent month eight of the ten firms submitted

vast majority of these 300 firms use third parties to fulfill their reporting obligations, and many of these third parties will begin reporting to CAT in November 2018. Consequently, FINRA believes that the burden on current OATS reporters that are Small Industry Members would not be significant if those firms are required to report to CAT beginning in November 2018 rather than November 2019. FINRA does not believe that it is necessary or appropriate to accelerate CAT reporting for Small Industry Members that are not currently reporting to OATS.[82]

The Systems Retirement Proposals of BX, IEX, NYSE, NYSE Arca, NYSE MKT, NASDAQ, and Phlx contain the same analysis as FINRA (or summarize FINRA's analysis) in connection with whether the earlier availability of data from Small Industry Members would facilitate the retirement of their own respective OATS rules, and these Exchanges expressed support for the Plan amendment described by FINRA.[83]

Some of the Systems Retirement Filings also discussed how earlier availability of data from Small Industry Members might affect the retirement of systems other than OATS. The COATS SROs expressed the view that COATS should not be retired until all Participants and Industry Members that report data to COATS are reporting comparable data to the CAT.[84] They noted that, while the early submission of options data to the CAT by Small Industry Members could expedite the retirement of COATS, they believe it premature to consider such a change, and that additional analysis would be necessary to determine whether such early reporting by Small Industry Members would be feasible. Some of the EBS SROs made statements similar to the COATS SROs with respect to whether earlier availability of data from Small Industry Members would facilitate EBS retirement,[85] while other EBS SROs stated that the submission of data to the CAT by Small Industry Members a year earlier than is required in the CAT NMS Plan, at the same time as the other Industry Members, would expedite the replacement of EBS data with CAT Data because CAT would then have all necessary data from Industry Members to enable these SROs to perform the regulatory surveillance that currently is performed via EBS.[86]

C. Individual Industry Member Exemptions

As noted above, the CAT NMS Plan also requires the SROs, in their Systems Retirement Proposals, to address ''whether individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.'' [87]

All of the SROs stated (or reiterated FINRA's statement) that a single ''cut-over'' from existing systems to CAT is preferable to elimination of OATS reporting requirements on a firm-by-firm basis.[88] Some of the SROs stated that providing individual exemptions to Industry Members would be inefficient, more costly, and less reliable than the single cut-over.[89] These SROs further stated that providing individual exemptions would require the temporary creation of a cross-system regulatory function and the integration of data from existing systems and the CAT to avoid creating any regulatory gaps as a result of such exemptions. These SROs believed that such a function would be costly to create and would give rise to a greater likelihood of data errors or other issues. These SROs stated that, given the limited time in which such exemptions would be necessary, they did not believe that such exemptions would be an appropriate use of limited resources. Some of the SROs also noted that, if an amendment to require Small Industry Members who currently report to OATS to begin reporting to CAT in November of 2018 were approved by the Commission, there would be no need to exempt members from OATS requirements on a firm-by-firm basis.[90]

FINRA argued that the primary beneficiary of its proposed approach would be the investing public.[91] FINRA noted that firm-by-firm retirement of OATS would require merging OATS and CAT data, and that such an approach would be ''technologically costly and difficult and could introduce errors into the data being surveilled that did not exist prior to integration.'' [92] FINRA further stated that conducting its surveillance using a single source ''increases the efficiency and effectiveness of the process and improves the integrity of the markets.'' [93] FINRA noted that the potential costs of this approach would be borne by those firms that would have met an individual threshold sooner and that the approach could disincentivize individual firms from meeting the minimum error rate thresholds, which could, at the margin, extend the period of duplicative reporting for all firms.[94] However, FINRA noted this disincentive would be small for firms with significant reporting burdens, as they would want to end duplicative reporting quickly, and that firms that otherwise delay in meeting their error rates could incur higher costs through enforcement actions.[95]

III. Summary of Comments

The Commission received four comments that were submitted to File Number SR–FINRA–2017–13.[96] Two of the commenters noted that their comments applied to the similar

fewer than 100 reports during the month, with four firms submitting fewer than 50).

[82] *See id.*

[83] *See* BX Notice, 82 FR at 25874–75; IEX Notice, 82 FR at 25402; NYSE Notice, 82 FR at 25636; NYSE Arca Notice 1, 82 FR at 25364; NYSE MKT Notice 2, 82 FR at 25441; NASDAQ Notice, 82 FR at 25822–23; Phlx Notice, 82 FR at 25866. *See also* FINRA Notice, 82 FR at 25427–28.

[84] *See* Bats BZX Notice, 82 FR at 25375–76; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25877; C2 Notice at, 82 FR at 25387; CBOE Notice, 82 FR at 25431; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25444; NASDAQ Notice, 82 FR at 25825; Phlx Notice, 82 FR at 25868.

[85] *See* MIAX Notice, 82 FR at 25368; PEARL Notice at 25437–38. MIAX and PEARL also make similar statements with respect to whether earlier availability of data from Small Industry Members would facilitate the retirement of MIAX Rule 607 and PEARL Rule 606, which require certain account and order information to be reported. *See* MIAX Notice, 82 FR at 25368; PEARL Notice at 25437–38.

[86] *See* BX Notice, 82 FR at 25876; ISE Notice, 82 FR at 25470; NASDAQ Notice, 82 FR at 25824; Phlx Notice, 82 FR at 25867.

[87] CAT NMS Plan, Appendix C, Section C.9.

[88] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25875–77; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25431–32; FINRA Notice, 82 FR at 25425; IEX Notice, 82 FR at 25402; ISE Notice, 82 FR at 25470; MIAX Notice, 82 FR at 25368; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25364; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25445; NYSE MKT Notice 2, 82 FR at 25441; NASDAQ Notice, 82 FR at 25823–25; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25866–68.

[89] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25876–77; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25431–32; ISE Notice, 82 FR at 25470; MIAX Notice, 82 FR at 25368; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25445; NASDAQ Notice, 82 FR at 25824–25; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25867–68.

[90] *See* BX Notice, 82 FR at 25875; FINRA Notice, 82 FR at 25426; NYSE Notice, 82 FR at 25637; NYSE Arca Notice 1, 82 FR at 25364; NYSE MKT Notice 2, 82 FR at 25441; NASDAQ Notice, 82 FR at 25823; Phlx Notice, 82 FR at 25866.

[91] *See* FINRA Notice, 82 FR at 25427.

[92] *Id.*

[93] *Id.*

[94] *See id.*

[95] *See id.*

[96] *See supra* note 11.

proposals made by the other SROs.[97] While the commenters supported certain aspects of the Systems Retirement Proposals, there were others—noted below—where the commenters did not agree and believed that the SROs had not provided adequate justification.

A. Possibility of Firm-by-Firm Retirement

All four of the commenters disagreed with the SROs' proposed approach of applying a single cut-over from existing systems to CAT. Two of the commenters argued that individual firms that achieve the quality criteria—even if the industry as a whole has not—should be granted exemptions from reporting to existing systems until those systems can be retired. In the commenters' view, the SROs' proposed approach would penalize firms that quickly and consistently meet or exceed quality standards for CAT reporting.[98] A third commenter argued that the single cut-over approach provides little incentive for an individual firm to reduce its error rate, because the retirement of OATS will be based on an industry-wide error rate that is beyond its control.[99]

Two commenters took the view that FINRA had not provided sufficient cost/benefit analysis to justify its position and emphasized the significant costs of duplicative reporting to broker-dealers.[100] One of these commenters noted that broker-dealers who do not outsource their regulatory reporting (approximately 126 firms) spend on average $725,615 per month on their regulatory reporting obligations (which include OATS, EBS, large trader reporting, and other reporting).[101] This commenter estimated that duplicative OATS and EBS reporting for these 126 broker-dealer firms would cost more than $20 million per month and stated that this approach would severely penalize broker-dealer firms that rapidly and consistently met reporting standards.[102] Another commenter cited the same average monthly cost of $725,615 and argued that the benefits of individual Industry Member exemptions outweigh the ''generalized and unsubstantiated justifications against such an approach'' outlined by the SROs.[103]

One commenter stated that FINRA has not provided sufficient technological rationale to explain its opposition to individual firm exemptions, and disagreed with FINRA's conclusion that the technology to merge OATS and CAT would be costly and could introduce errors.[104] The commenter argued that there are ''multiple possible approaches that could be used to integrate CAT and OATS data allowing FINRA to effectively surveil the market, especially if FINRA and the Plan Processor work jointly on a cooperative solution.'' [105] In addition, the commenter noted that, because the EBS retirement plan proposes to extract any data available in CAT before requesting historical data or data for asset classes not covered by CAT, the SROs can effectively merge CAT data and existing EBS data to meet their surveillance obligations.[106] Similarly, another commenter noted that the Participants have committed to include the relevant fields required for the decommissioning of OATS in the initial phase of CAT and recommended that FINRA utilize data from CAT to obtain what it would otherwise receive from OATS.[107]

Another commenter recommended that the SROs include a cost-benefit analysis of a ''CAT-to-OATS converter'' that would allow firms that meet the error rates to cease sending data to OATS directly.[108] Instead, the Plan Processor would convert the CAT reports of the firm into an OATS-eligible format and report that firm's audit trail information to OATS. The commenter believed that this approach is technically possible based on comments made by the Plan Processor, and ''that CAT Industry Member Specifications could incorporate this concept.'' [109]

B. Assessment Criteria

All four of the commenters generally maintained that only data required by OATS or EBS rules today should be included in the accuracy and reliability metrics for system retirement, and that CAT data elements or other aspects of CAT that are not required by existing systems should be outside the scope for assessment.[110] One commenter argued, for example, that CAT error rates related to customer information and options activity should not have any bearing on the retirement of OATS, as FINRA does not rely on OATS for that information.[111] Another commenter posed a number of clarifying questions regarding the standards, including whether the proposed accuracy and reliability metrics apply to Participants as well as Industry Members, whether the proposed accuracy and reliability metrics for the OATS retirement plan apply only to equities data, whether customer and account information accuracy standards are excluded from the OATS retirement plan, whether the inter-firm linkage quality metric is calculated as an aggregate measurement across all Industry Members, and whether the 2% post-correction error rate is an average error rate over the period calculated as the number of erroneous records, as measured on T+5 divided by the total number of records received.[112] This commenter also recommended that FINRA consider that the average pre-correction error rate across the five categories (*i.e.,* rejection rates, intra-firm linkages, inter-firm linkages, order linkage rates, exchange and TRF/ORF match rates) must achieve 5%, but no single category could exceed 7% for the pre-correction error rate.[113] This commenter further recommended that corrections should be calculated under CAT in the same timeframes as under existing audit trail systems (*i.e.,* T+6 for OATS and T+10 for EBS rather than T+5, as proposed).[114]

Three commenters raised concerns about the broader, qualitative factors proposed by the SROs—that during the 180-day evaluation period material issues are not revealed, that the CAT includes all data necessary to allow FINRA to continue to meet its surveillance obligations, and that the

[97] *See* FIF Letter at 1; Thomson Reuters Letter at 1.

[98] *See* FIF Letter at 3; SIFMA Letter at 3–4 (noting that the inaccurate reporting of the ''slowest'' broker-dealers, in the absence of individual firm exemptions, could force the whole industry to engage in duplicative reporting for an extended period).

[99] *See* Fidelity Letter at 4. This commenter also suggested that FINRA could ''consider migrating firms in tranches, or phases, based on priority of those firms that first met the proposed error rates'' if FINRA does not agree that a firm-by-firm transition is appropriate. *Id.*

[100] *See* FIF Letter at 3; Thomson Reuters Letter at 3.

[101] *See* FIF Letter at 3.

[102] *See id.*

[103] SIFMA Letter at 3–4.

[104] *See* FIF Letter at 3.

[105] *Id.* (also stating that the Plan Processor could, for example, route all CAT reports and errors corrections from exempted firms to FINRA for conversion and input into OATS, and that more sophisticated data merge solutions are possible with a reasonable investment by FINRA and the Plan Processor).

[106] *See id.* at 4.

[107] *See* SIFMA Letter at 3–4 (''once a broker-dealer meets accuracy thresholds in CAT, and the surveillance logic is recreated with the Central Repository, FINRA should utilize a subset of data from the CAT, and format it so that it effectively mimics what it would have received from OATS'').

[108] *See* Thomson Reuters Letter at 3.

[109] *Id.*

[110] *See* FIF Letter at 4; SIFMA Letter at 2; Thomson Reuters Letter at 2–3; Fidelity Letter at 3.

[111] *See* SIFMA Letter at 2. *See also* Fidelity Letter at 3.

[112] *See* FIF Letter at 4–5.

[113] *See id.* Similarly, the commenter recommended that ''the average post-correction error rate across the five categories must achieve 2% but no single category could exceed a 3% post-correction error rate.'' *Id.* at 5.

[114] *See id.*

Plan Processor is sufficiently meeting all of its obligations under the Plan.[115] Two commenters suggested that the Systems Retirement Proposals should require these conditions to be met before CAT goes live and acknowledge that evaluation of all of these issues will begin with CAT Participant reporting.[116] Another commenter opined that these additional standards do not provide enough clarity regarding when FINRA will retire OATS and provide too much discretion to FINRA.[117]

C. Assessment Length and Other Considerations Relating to the Assessment Period

One commenter recommended that the SROs should consider shortening the trial period if all criteria have been met before the 180th day.[118] This commenter also recommended that the 180-day trial period be a ''rolling metric''—*i.e.,* if the industry does not meet the quality criteria by the end of the first 180 days, the most recent 180 days should be recalculated each day thereafter.[119] The same commenter urged FINRA to ''take a daily accounting of the measurements'' and to ''communicate both the aggregate measurements and the individual Industry Member measurements so that all parties are regularly updated'' regarding the status of the various error rates and can make necessary corrections.[120]

Two commenters argued that the early phases of CAT compliance should be viewed as a ''trial period'' and that there should be no CAT penalties or regulatory inquiries associated with CAT reporting before the end of the trial period.[121] One of these commenters suggested ''that CAT not go-live until the 95% uncorrected and 98% post-correction thresholds have been met for two weeks during the testing period.'' [122] Similarly, another commenter stated that the SROs ''should establish a test period to gather information prior to production reporting'' to ''enable CAT to go into production at a confidence level that allows its reporting systems to serve as many existing regulatory requirements and accompanying surveillance programs as possible.'' [123]

D. Additional Plan Amendments

All of the commenters supported requiring reporting for current OATS reporters 24 months after the CAT effective date. Of those, two commenters supported the proposal to amend the CAT NMS Plan to accelerate CAT reporting for Small Industry Members who currently report to OATS from 36 to 24 months after the CAT Effective Date.[124] Two other commenters instead recommended that all current OATS reporters—regardless of size—should begin reporting to CAT in November of 2018 and all non-OATS reporters should be allowed to begin reporting to CAT in November of 2019.[125] One of these commenters noted that many large broker-dealers do not report to OATS and argued that ''requiring such firms to implement the systems and reporting mechanisms for the CAT on a shortened timeframe simply due to their designation as a 'Large Industry Member' may result in significant technological and operational challenges.'' [126] Accordingly, the commenter urged some mechanism to allow such Large Industry Members to begin reporting 36 rather than 24 months after the CAT Effective Date.[127] The other commenter noted that, if the first phase of Industry Member reporting were limited to current OATS reporting firms, FINRA would still have all of the data that it currently has from OATS today.[128]

E. Other Comments

Three commenters requested that the CAT NMS Plan be clarified to specify that prime broker transactions are included in the CAT reporting requirements.[129] One commenter stated that ''this will enable a more complete set of transactions in the CAT audit trail and allow CAT to replace EBS as a more complete reporting source for this data.'' [130] Similarly, another commenter noted that prime broker transactions are missing from the CAT NMS Plan, which ''may prevent the regulators from utilizing CAT data as envisioned.'' [131]

IV. Proceedings To Determine Whether To Approve or Disapprove the Systems Retirement Proposals, as Modified by Amendments Thereto

The Commission hereby institutes proceedings pursuant to Section 19(b)(2) of the Act [132] to determine whether the Systems Retirement Proposals of Bats BZX, Bats EDGX, BOX, BX, C2, CBOE, FINRA, IEX, ISE, MIAX, NASDAQ, PEARL, NYSE, NYSE Arca, NYSE MKT, and Phlx, as modified by their respective amendments, should be approved or disapproved. Further, pursuant to Section 19(b)(2)(B) of the Act,[133] the Commission is hereby providing notice of the grounds for disapproval under consideration. The Commission believes that it is appropriate to institute proceedings at this time in view of the legal and policy issues raised by the proposals. Institution of proceedings does not indicate, however, that the Commission has reached any conclusions with respect to any of the issues involved.

In particular, the Commission is instituting proceedings to allow for additional analysis for consistency with: (1) Section 6(b)(5) of the Act,[134] with respect to the Exchanges' Systems Retirement Proposals, and Section 15A(b)(6) of the Act,[135] with respect to FINRA's Systems Retirement Proposal, both of which sections require, among other things, that the rules of a national securities exchange or registered securities association be designed ''to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, . . . to remove impediments to and perfect the

[115] *See* Fidelity Letter at 2–3; FIF Letter at 5; Thomson Reuters Letter at 4–5.

[116] *See* FIF Letter at 5; Thomson Reuters Letter at 4–5.

[117] *See* Fidelity Letter at 2–3.

[118] *See* FIF Letter at 2.

[119] *See id.*

[120] *Id.* at 2. *See also* Thomson Reuters Letter at 2 (noting that these daily metrics should be issued during the planned testing phase that begins no later than three months before CAT reporting and that the actual date of OATS and EBS retirement will remain uncertain without access to these metrics).

[121] *See* FIF Letter at 2; Thomson Reuters at 2.

[122] Thomson Reuters Letter at 2–3.

[123] SIFMA Letter at 2.

[124] *See* FIF Letter at 2; Thomson Reuters Letter at 2 (commending the SROs for ''their willingness to move all OATS reporters to the same timeline''). One of these commenters noted that accelerating the compliance date might ''place additional burden on the Small Industry Members who are OATS reporters, even for those members that will likely use third party providers for their CAT reporting obligations, because these reporters ultimately bear supervisory responsibility for the OATS and CAT regulatory reporting.'' FIF Letter at 2. The commenter concluded, however, that ''the economic trade-off of a significantly earlier date for OATS retirement for the entire industry'' justifies the proposal. *Id.*

[125] *See* SIFMA Letter at 2–3; Fidelity Letter at 3.

[126] SIFMA Letter at 2. *See also* Fidelity Letter at 3 (arguing that phasing in CAT reporting based on current OATS-reporting status would give non-OATS reporting firms additional time to comply with CAT requirements).

[127] *See* SIFMA Letter at 2–3.

[128] *See* Fidelity Letter at 3.

[129] *See* FIF Letter at 5; SIFMA Letter at 4; Thomson Reuters Letter at 4.

[130] FIF Letter at 5.

[131] SIFMA Letter at 4.

[132] 15 U.S.C. 78s(b)(2).

[133] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding, or if the exchange consents to the longer period. *See id.*

[134] 15 U.S.C. 78f(b)(5).

[135] 15 U.S.C. 78o–3(b)(6).

mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest;'' and (2) Section 6(b)(8) of the Act,[136] with respect to the Exchanges' Systems Retirement Proposals, and Section 15A(b)(9) of the Act,[137] with respect to FINRA's Systems Retirement Proposal, both of which sections require that the rules of a national securities exchange or registered securities association ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].''

In addition, the Commission is instituting proceedings to allow for additional analysis of whether the Systems Retirement Proposals are consistent with Section 11A of the Act[138] and Rules 608(c) and 613 of Regulation NMS thereunder.[139] Section 11A of the Act directs the Commission, with due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to use its authority to facilitate the establishment of a national market system for securities, including by authorizing or requiring SROs to act jointly to plan, develop, operate, or regulate a national market system. Rule 608(c) requires each SRO to comply with the terms of any effective NMS plan of which it is a sponsor or participant. Rule 613 requires the CAT NMS Plan to include a ''plan to eliminate existing rules and systems . . . that will be rendered duplicative by the consolidated audit trail.''[140] The Plan, in turn, required the SROs to file proposed rule changes, within six months of the Commission's approval of the Plan, to eliminate or modify their duplicative rules.[141] The Plan further stated that the rule change proposals to eliminate or modify duplicative rules and systems should be ''effective at such time as CAT Data meets minimum standards of accuracy and reliability.''[142] As discussed above, the Plan also requires these proposals to discuss the specific accuracy and reliability standards that would determine when duplicative systems would be retired, whether the availability of certain data from Small Industry Members in November 2018 would facilitate a more expeditious retirement of duplicative systems, and whether individual Industry Members could be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards.[143] Accordingly, the SROs filed the Systems Retirement Proposals to indicate which duplicative rules and systems would be eliminated once CAT is sufficiently accurate and reliable and to explain how they intend to assess CAT's accuracy and reliability. The Commission is therefore considering whether the Systems Retirement Proposals are consistent with the SROs' regulatory obligations under Rule 608(c), Rule 613, and the Plan, and are otherwise consistent Section 11A of the Act and the rules and regulations thereunder.

As noted above, the CAT NMS Plan required the SROs' proposals to retire duplicative audit trail systems to consider whether ''individual Industry Members can be exempted from reporting to duplicative systems once their CAT reporting meets specified accuracy and reliability standards, including, but not limited to, ways in which establishing cross-system regulatory functionality or integrating data from existing systems and the CAT would facilitate such Individual Industry Member exemptions.''[144] In addition, in the CAT Approval Order, the Commission noted ''that FINRA is considering whether it can integrate CAT Data with OATS data in such a way that 'ensures no interruption in FINRA's surveillance capabilities,' and that FINRA will consider 'exempting firms from the OATS Rules provided they report data to the Central Repository pursuant to the CAT NMS Plan and any implementing rules.' ''[145] The Commission also ''encourage[d] the other Participants to consider similar measures to exempt firms from reporting to existing systems once they are accurately reporting comparable data to the CAT and to enable the usage of CAT Data to conduct their regulatory activities.''[146] As described above, the SROs considered individual firm exemptions but believe that a single cut-over from existing systems to CAT is preferable to a firm-by-firm approach. Several of the SROs assert that providing firm-by-firm exemptions would be inefficient, more costly, and less reliable than the single cut-over.[147] However, commenters disagreed with this aspect of the SROs' proposals, and questioned whether FINRA had adequately analyzed the costs and benefits of allowing firms to discontinue OATS reporting on an individual basis. Commenters also noted the high costs of duplicative reporting. Accordingly, the Commission is considering whether the Systems Retirement Proposals impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, including the potential competitive burdens that may be created by an extended period of duplicative reporting for certain firms.

As discussed in more detail above, the SROs also proposed certain accuracy and reliability standards that CAT Data must meet before existing systems can be retired. These standards include both quantitative and qualitative metrics. Commenters raised questions about the scope of these metrics, in particular data elements and functionalities that were not included in current audit trail systems, and asked for clarification regarding a number of metrics. In addition, several commenters raised concerns about the broader, qualitative factors proposed by the SROs. Accordingly, the Commission is considering the accuracy and reliability standards set forth in the Systems Retirement Proposals.

In addition, the Commission is considering whether the Systems Retirement Proposals are designed to prevent fraudulent and manipulative acts and practices and, in particular, whether the Systems Retirement Proposals would help to ensure that the SROs can effectively conduct their surveillance and oversight functions. The Commission is also considering whether the Systems Retirement Proposals remove impediments to and perfect the mechanism of a free and open market and a national market system and whether they adequately balance the duplicative reporting costs incurred by broker-dealers and the risks to effective surveillance and oversight, which may impact investor protection.

V. Commission's Solicitation of Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns that they may have with any of the Systems Retirement Proposals. In particular, the Commission invites the

[136] 15 U.S.C. 78f(b)(8).

[137] 15 U.S.C. 78o–3(b)(9).

[138] 15 U.S.C. 78k–1.

[139] 17 CFR 242.608(c) and 242.613.

[140] 17 CFR 242.613(a)(9).

[141] *See* CAT NMS Plan, Appendix C, Section C.9.

[142] *Id.*

[143] *See id.*

[144] *See* CAT NMS Plan, Appendix C, Section C.9.

[145] CAT Approval Order, 81 FR at 84771.

[146] *Id.*

[147] *See* Bats BZX Notice, 82 FR at 25376; Bats EDGX Notice, 82 FR at 25360; BOX Notice, 82 FR at 25493; BX Notice, 82 FR at 25876–77; C2 Notice, 82 FR at 25387; CBOE Notice, 82 FR at 25431–32; ISE Notice, 82 FR at 25470; MIAX Notice, 82 FR at 25368; NYSE Arca Notice 2, 82 FR at 25640; NYSE MKT Notice 1, 82 FR at 25445; NASDAQ Notice, 82 FR at 25824–25; PEARL Notice, 82 FR at 25438; Phlx Notice, 82 FR at 25867–68.

written views of interested persons concerning whether the Systems Retirement Proposals, as modified by the amendments thereto, are consistent with Sections 6(b)(5), 6(b)(8), 15A(b)(6), 15A(b)(9), or any other provision of the Act, and the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[148]

Such comments should be submitted by September 27, 2017. Rebuttal comments should be submitted by October 11, 2017. The Commission asks that commenters address the sufficiency and merit of the SROs' statements in support of their respective Systems Retirement Proposals, in addition to any other comments that commenters may wish to submit about any of the proposed rule changes. The Commission also asks the SROs to respond to the issues raised in the four comment letters received to date, including the commenters' cost estimates. In addition, the Commission seeks comment, including, where relevant, any specific data, statistics, or studies, on the following:

1. What would be the monetary costs of constructing a CAT-to-OATS ''converter'' or developing an alternative mechanism for linking CAT Data to OATS that would provide continuity of the OATS SROs' surveillance capabilities? To the extent possible, please provide specific data, analyses, or studies for support for your answer.

2. What technological challenges would have to be addressed to make a converter or other mechanism feasible? When could work begin on a converter or alternative mechanism? For example, could work begin before technical specifications for Industry Member reporting to CAT have been finalized? Could work begin before the Plan Processor had begun accepting CAT reports from Industry Members and making those reports available to regulators? How long would it take to construct a converter or other mechanism? To the extent possible, please provide specific data, analyses, or studies for support for your answer.

3. Are there any entities that would be capable of constructing a converter? Please explain who they are and why you believe they have the ability to construct a converter. To the extent possible, please provide specific data, analyses, or studies for support for your answer.

4. If the costs of the converter would be passed on to Industry Members, would the benefits of a converter be undermined? To the extent possible please provide specific data, analyses, or studies for support for your answer.

5. Please estimate, to the extent possible, the percentage of Industry Members' CAT reports that would qualify for an individual exemption from OATS reporting for each month after Industry Members begin reporting in November 2018. Do you believe that the costs and/or benefits of a converter would be affected by the number of Industry Members that can be expected to meet the threshold error rates for CAT reporting (weighted by their percentage of total CAT reports submitted by OATS-reporting Industry Members) before full OATS retirement, thus qualifying for an individual exemption from OATS and to have their CAT reports converted to OATS? To the extent possible, please provide specific data, analyses, or studies for support for your answer.

6. Do you believe that the Systems Retirement Proposals would result in any burden on competition and, if so, please analyze whether any such burden would be necessary or appropriate in furtherance of the purposes of the Act. If there are burdens, how would they compare to the burdens that would be imposed by the converter approach? To the extent possible, please provide specific data, analyses, or studies for support of your answer.

7. What impact would a converter have on the SROs' ability to conduct their surveillance and oversight? Specifically, do you believe that there are risks that a converter might not be able to successfully integrate CAT reports into OATS? If so, what is the likelihood of failures and what would be the magnitude of the costs resulting from any such failures? What costs might be incurred by SROs to detect and address any regulatory gaps created by a converter? For example, would an OATS SRO have to design additional surveillances to address that possibility? If so, what sort of additional surveillances might be necessary and how would you estimate the cost for an SRO to develop them? To the extent possible, please provide specific data, analyses, or studies for support.

8. How long do you believe it will take before CAT reaches the accuracy and reliability thresholds proposed by the SROs before retiring OATS and other systems for all firms? Also, how long do you think it would take to make an effective converter available and how long would the converter be used for those firms who individually have met the thresholds while CAT overall has not? Does the length of this period affect your cost/benefit analysis for the converter approach? If so, how?

9. Regarding the converter approach and firm-by-firm exemptions from OATS reporting, what criteria should the OATS SROs consider for releasing a firm from its OATS requirements? To the extent possible please provide specific data, analyses, or studies for support. Would you still support a firm-by-firm approach if it also incorporated an assessment of whether the Plan Processor is sufficiently meeting all of its obligations under the Plan?

10. Please describe any opportunity costs associated with the converter approach. For example, would the development of the converter and any new processes and procedures at the SRO level to accommodate the converter divert resources that otherwise would be devoted to CAT implementation? If so, please describe the nature and extent of such effects.

11. Do you agree with the estimated costs of duplicative reporting described by two of the commenters?[149] Are there any additional opportunity costs faced by Industry Members that would result from duplicative reporting? How would the length of the duplicative reporting period affect the opportunity costs? To the extent possible, please provide specific data, analyses, or studies for support.

12. Do you agree with the proposed quantitative metrics for the pre- and post-correction error rates that would have to be attained by CAT before the SROs would retire duplicative systems? Do you agree with the proposed categories for the assessment? Why or why not? Are these categories sufficiently clear? If you believe that different thresholds or alternative areas for consideration would be more appropriate, please describe. What are the costs and benefits of the proposed approach versus any alternative approach that you would recommend?

13. Do you agree with the SROs' proposed qualitative standards for retirement of duplicative systems, *i.e.,*

[148] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[149] *See supra* notes 101–103 and accompanying text.

that retirement could not be permitted to occur until it is confirmed that (1) there are no material issues in CAT that have not been corrected, (2) the CAT includes all data necessary to allow the SROs to continue to meet their surveillance obligations, and (3) the Plan Processor is sufficiently meeting all of its obligations under the CAT NMS Plan? Why or why not? What are the costs and benefits of the proposed approach versus an alternative approach, which may include not having any additional qualitative considerations?

14. To what extent should the SROs consider CAT performance regarding functions and data elements not present within existing audit trail systems when determining when to allow retirement of those existing systems? What are the costs and benefits of the proposed approach versus any alternative approach that you would recommend? Do you believe that the Systems Retirement Proposals will promote efficiency, competition, and capital formation? Please submit any data or information that would assist the Commission in considering these issues.

15. Do you agree with the length of the assessment period proposed by the SROs? Why or why not? If not, what alternative do you believe would be more appropriate and why? What are the costs and benefits of the proposed approach versus any alternative approach that you would recommend? To the extent possible, please provide specific data, analyses, or studies for support.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include any of File Numbers SR–BatsBZX–2017–37, SR–BatsEDGX–2017–23, SR–BOX–2017–17, SR–BX–2017–027, SR–C2–2017–018, SR–CBOE–2017–041, SR–FINRA–2017–013, SR–IEX–2017–18, SR–ISE–2017–46, SR–MIAX–2017–20, SR–NASDAQ–2017–055, SR–PEARL–2017–23, SR–NYSE–2017–23, SR–NYSEArca–2017–57, SR–NYSEArca–2017–59, SR–NYSEMKT–2017–29, SR–NYSEMKT–2017–30, or SR–Phlx–2017–43, as appropriate, on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to any of: File Numbers SR–BatsBZX–2017–37, SR–BatsEDGX–2017–23, SR–BOX–2017–17, SR–BX–2017–027, SR–C2–2017–018, SR–CBOE–2017–041, SR–FINRA–2017–013, SR–IEX–2017–18, SR–ISE–2017–46, SR–MIAX–2017–20, SR–NASDAQ–2017–055, SR–PEARL–2017–23, SR–NYSE–2017–23, SR–NYSEArca–2017–57, SR–NYSEArca–2017–59, SR–NYSEMKT–2017–29, SR–NYSEMKT–2017–30, or SR–Phlx–2017–43, as appropriate. The file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the SRO. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to any of File Numbers SR–BatsBZX–2017–37, SR–BatsEDGX–2017–23, SR–BOX–2017–17, SR–BX–2017–027, SR–C2–2017–018, SR–CBOE–2017–041, SR–FINRA–2017–013, SR–IEX–2017–18, SR–ISE–2017–46, SR–MIAX–2017–20, SR–NASDAQ–2017–055, SR–PEARL–2017–23, SR–NYSE–2017–23, SR–NYSEArca–2017–57, SR–NYSEArca–2017–59, SR–NYSEMKT–2017–29, SR–NYSEMKT–2017–30, or SR–Phlx–2017–43, as appropriate, and should be submitted by September 27, 2017. Rebuttal comments should be submitted by October 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[150]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18793 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[150] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Form N–54C, SEC File No. 270–184, OMB Control No. 3235–0236.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Certain investment companies can elect to be regulated as business development companies, as defined in section 2(a)(48) of the Investment Company Act of 1940 (''Investment Company Act''), under sections 55 through 65 of the Investment Company Act. Under section 54(a) of the Investment Company Act,[1] any company defined in section 2(a)(48)(A) and (B) of the Investment Company Act may, if it meets certain enumerated eligibility requirements, elect to be subject to the provisions of Sections 55 through 65 of the Investment Company Act by filing with the Commission a notification of election. Under section 54(c) of the Investment Company Act,[2] any business development company may voluntarily withdraw its election under section 54(a) of the Investment Company Act by filing a notice of withdrawal of election with the Commission. The Commission has adopted Form N–54C as the form for the notification of withdrawal of election to be subject to Sections 55 through 65 of the Investment Company Act. The purpose of Form N–54C is to notify the Commission that the business development company withdraws its election to be subject to Sections 55

[1] 15 U.S.C. 80a–53(a).

[2] 15 U.S.C. 80a–53(c).

through 65 of the Investment Company Act.

The Commission estimates that on average approximately four business development companies file notifications on Form N–54C each year. Each of those business development companies need only make a single filing of Form N–54C. The Commission further estimates that this information collection imposes a burden of one hour, resulting in a total annual burden of four hours. Based on the estimated wage rate, the total cost to the business development company industry of the hour burden for complying with Form N–54C would be approximately $1,380.[3]

The collection of information under Form N–54C is mandatory. The information provided by the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

[3] The industry burden is calculated by multiplying the total annual hour burden to prepare Form N–54C (four) by the estimated hourly wage rate of $345 for a compliance attorney or other similarly situated business development company employee. The estimated wage figure is based on published rates for compliance attorneys from the Securities Industry and Financial Markets Association's Report on Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800 hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead, yielding an effective hourly rate of $1,380.

Dated: August 31, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18860 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81497; File No. SR–BatsBZX–2017–55]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Harmonize the Corporate Governance Framework With That of Chicago Board Options Exchange, Incorporated and C2 Options Exchange Incorporated

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 23, 2017, Bats BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On August 25, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend and restate its certificate of incorporation and bylaws, as well as amend its Rules.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BZX submits this rule filing to the Securities and Exchange Commission (the ''Commission'') in connection with a corporate transaction (the ''Transaction'') involving, among other things, the recent acquisition of BZX, along with Bats BYX Exchange, Inc. (''Bats BYX''), Bats EDGX Exchange, Inc. (''Bats EDGX''), and Bats EDGA Exchange, Inc. (''Bats EDGA'' and, together with Bats BZX, Bats BYX, and Bats EDGX, the ''Bats Exchanges'') by CBOE Holdings, Inc. (''CBOE Holdings''). CBOE Holdings is also the parent of Chicago Board Options Exchange, Incorporated (''CBOE'') and C2 Options Exchange, Incorporated (''C2''). This filing proposes to amend and restate the bylaws (and amend the rules, accordingly) and the certificate of incorporation of the Exchange based on the bylaws and certificates of incorporation of CBOE and C2.

Specifically, the Exchange proposes to replace the certificate of incorporation of Bats BZX Exchange, Inc., (the ''current Certificate'') in its entirety with the Amended and Restated Certificate of Incorporation of Bats BZX Exchange, Inc. (the ''proposed Certificate''). Additionally, the Exchange proposes to replace the Fifth Amended and Restated Bylaws of Bats BZX Exchange, Inc. (the ''current Bylaws'') in its entirety with the Sixth Amended and Restated Bylaws of Bats BZX Exchange, Inc. (the ''proposed Bylaws''). The Exchange believes that it is important for each of CBOE Holdings' six U.S. securities exchanges to have a consistent, uniform approach to corporate governance. Therefore, to simplify and unify the governance and corporate practices of these six exchanges, the Exchange proposes to revise the current Certificate and current Bylaws to conform them to the certificates of incorporation and bylaws of the CBOE and C2 exchanges (*i.e.,* the Third Amended and Restated Certificate of Incorporation of Chicago Board Options Exchange, Incorporated and the Fourth Amended and Restated Certificate of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Certificate'') and the Eighth Amended and Restated Bylaws of Chicago Board Options Exchange, Incorporated and the Eighth Amended and Restated Bylaws of C2

Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Bylaws''). The proposed Certificate and proposed Bylaws reflect the expectation that the Exchange will be operated with governance structures similar to those of CBOE and C2. Accordingly, the Exchange proposes to adopt corporate documents that set forth a substantially similar corporate governance framework and related processes as those contained in the CBOE Certificate and CBOE Bylaws. The Exchange believes the proposed changes to the current Certificate and current Bylaws are consistent with the requirements of the Securities Exchange Act of 1934, as amended (the ''Act'').

(a) Changes to the Certificate

In connection with the Transaction, the Exchange proposes to amend and restate the current Certificate to conform to the certificates of incorporation of CBOE and C2. The proposed Certificate is set forth in Exhibit 5B. Specifically, the Exchange proposes to make the following substantive amendments to the current Certificate.

- Adopt an introductory section.
- Amend Article Third to provide further details as to the nature of the business of the Exchange. Specifically, the proposed Certificate will further specify that the nature of the Exchange is (i) to conduct and carry on the function of an ''exchange'' within the meaning of that term in the Act and (ii) to provide a securities market place with high standards of honor and integrity among its Exchange Members and other persons holding rights to access the Exchange's facilities and to promote and maintain just and equitable principles of trade and business.
- Article Fourth of the proposed Certificate specifies that Bats Global Markets Holdings, Inc. will be the sole owner of the Common Stock and that any sale, transfer or assignment by Bats Global Markets Holdings, Inc. of any shares of Common Stock will be subject to prior approval by the SEC pursuant to a rule filing. The Exchange notes that Article IV, Section 7 of the current Bylaws similarly precludes the stockholder from transferring or assigning, in whole or in part, its ownership interest(s) in the Exchange.
- Article Fifth of the current Certificate regarding the name and address of the sole incorporator is being deleted as it is now outdated.
- Article Fifth of the proposed Certificate is the same as Article Fifth of the CBOE Certificate. Specifically, Article Fifth, subparagraph (a) provides that the governing body of the Exchange shall be its Board. Article Fifth, subparagraph (b) provides that the Board shall consist of not less than five (5) Directors and subparagraph (c) includes language regarding the nomination of directors, which information is substantially similar as is provided in the CBOE Bylaws and the proposed Bylaws.[3] Article Fifth, subparagraph (d) of the proposed Certificate provides that in discharging his or her responsibilities as a member of the Board, each Director shall take into consideration the effect that his or her actions would have on the ability of the Exchange to carry out the Exchange's responsibilities under the Act and on the ability of the Exchange: To engage in conduct that fosters and does not interfere with the Exchange's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest. In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Exchange, each such Director, officer or employee shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission, and the Exchange pursuant to its regulatory authority. The Exchange notes that similar language is included in the current Bylaws.[4]
- Article Sixth of the proposed Certificate governs the indemnification of Directors of the Board. The Exchange notes that its indemnification provision is currently contained in Article VIII of the current Bylaws. In order to conform governance documents across all CBOE Holdings' exchanges and conform indemnification practices, the Exchange is eliminating its indemnification in the bylaws and adopting the same indemnification language that is currently contained in Article Sixth of the CBOE Certificate.
- Article Seventh of the proposed Certificate is the same as Article Seventh of the CBOE Certificate and provides that the Exchange reserves the right to amend, change or repeal any provision of the certificate. It also provides that before any amendment or repeal of any provision of the certificate shall be effective, the changes must be submitted to the Board, and if such amendment or repeal must be filed with or filed with and approved by the Commission, it won't be effective until filed with or filed with and approved by the Commission.
- Article Eighth of the proposed Certificate is the same as Article Eighth of the CBOE Certificate. Proposed Article Eighth provides that a Director of the Exchange shall not be liable to the Exchange or its stockholders for monetary damages for breach of fiduciary duty as a Director, except to the extent such exemption from liability or limitation is not permitted under Delaware Corporate law.
- Article Ninth of the proposed Certificate is the same as Article Ninth of the CBOE Certificate. Specifically it provides that unless and except to the extent that the Exchange's bylaws require, election of Directors of the Exchange need not be by written ballot.
- Article Tenth of the proposed Certificate is the same as Article Tenth of the CBOE Certificate and provides that in furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board is expressly authorized to make, alter and repeal the Exchange's bylaws, which is already provided for in both the current Bylaws and proposed Bylaws.[5]
- Article Eleventh of the proposed Certificate is the same as Article Eleventh of the CBOE Certificate and is similar to Article XI, Section 3 of the current Bylaws. Particularly, Article Eleventh provides that confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (i) Not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (iii) not be used for any commercial purposes. Additionally, Article Eleventh of the proposed Certificate further provides that nothing in Article Eleventh shall be interpreted as to limit or impede the rights of the Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or

[3] *See* Article III of the CBOE Bylaws and proposed Bylaws.

[4] *See* Article III, Section 1(d) and Section 1(e) of the current Bylaws.

[5] *See* Article IX, Section 1 of the current Bylaws and Article IX, Section 9.1 of the proposed Bylaws.

impede the ability of any officers, directors, employees or agents of the Exchange to disclose such confidential information to the Commission.

(b) Substantive Changes to the Bylaws

In connection with the Transaction, the Exchange also proposes to amend and restate the current Bylaws to conform to the Bylaws of CBOE and C2. The proposed Bylaws is set forth in Exhibit 5D. Specifically, the Exchange proposes to make the following substantive amendments to the current Bylaws:

Definitions

The Exchange first notes that Section 1.1 of the proposed Bylaws, titled ''Definitions,'' contains key definitions of terms used in the proposed Bylaws, and are based on the defined terms used in Section 1.1 of the CBOE Bylaws. The Exchange notes that certain differences in terminology in the proposed Bylaws and CBOE Bylaws will exist (*e.g.,* use of the term ''Exchange Member'' instead of ''Trading Permit Holder''). The Exchange proposes to eliminate from the current Bylaws certain definitions that would be obsolete under the proposed Bylaws (*e.g.,* references to ''Member Representative Directors'' and ''Member Nominating Committee'') and also proposes to move certain defined terms located in the current Bylaws to the BZX Rules (*i.e.,* ''Industry member'' and ''Member Representative member'').[6] Additionally, the Exchange proposes to define certain terms in the current Bylaws in places other than Section 1.1, so as to match the CBOE Bylaws (*e.g.,* the definition of ''Industry Director'' is being relocated to Article III, Section 3.1 of the proposed Bylaws and the definition of ''Record Date'' is being relocated to Article II, Section 2.7 of the proposed Bylaws).[7]

Office and Agent

The Exchange notes that the information in Article II (Office and Agent) of the current Bylaws is not included in the proposed Bylaws. The Exchange notes that the language contained in Section 2 and 3 of Article II is already located in the current Certificate and will continue to be located in the proposed Certificate.[8] The Exchange does not believe the information contained in Section 1 of Article II is necessary to include in the proposed Bylaws and notes that the CBOE Bylaws do not contain information relating to the principal business office.

Nomination and Election Process

Article III of the proposed Bylaws, titled ''Board of Directors'', mirrors the language in Article III of the CBOE Bylaws and contains key provisions regarding the processes for nominating and electing Representative Directors.

General Nomination and Election

Under the Exchange's current director nomination and election process, the Nominating Committee (which is not a Board committee, but rather is composed of Exchange member representatives) [9] nominates Directors for each Director position standing for election for that year. Additionally, for Member Representative Director positions,[10] the Nominating Committee must nominate the Directors that have been approved and submitted by the Member Nominating Committee (which is also not a Board committee, but rather is composed of Member Representative members).[11] Additionally, pursuant to Article III, Section 3(b) of the current Bylaws, the Exchange Directors are divided into three classes, designated as Class I, Class II and Class III. Directors other than the Chief Executive Officer of the Exchange (''CEO'') serve staggered three-year terms. The Exchange proposes to adopt a nomination and election process identical to CBOE and C2 as set forth in Article III of the proposed Bylaws. As such, the tiered class system will be eliminated, Directors will serve one-year terms ending on the annual meeting following the meeting at which Directors were elected or at such time as their successors are elected or appointed and the newly established Nominating and Governance Committee will be responsible for nominating each Director.[12]

Nomination and Election of Representative Directors

Currently, pursuant to Article III, Section 4(b) of the current Bylaws, for Member Representative Directors, the Member Nominating Committee consults with the Nominating Committee, the Chairman of the Board and the CEO, and also solicits comments from Exchange Members for purposes of approving and submitting the names of candidates for election as a Member Representative Director. The initial nominees for Member Representative Directors must be reported to the Nominating Committee and Secretary no later than sixty (60) days prior to the annual or special stockholders' meeting, at which point the Secretary will promptly notify Exchange Members. Exchange Members may then identify other candidates by delivering to the Secretary, at least thirty-five (35) days before the annual or special stockholders' meeting, a written petition, identifying the alternative candidate and signed by Executive Representatives [13] of 10% or more of Exchange Members. No Exchange Member, together with its affiliates, may account for more than fifty percent (50%) of the signatures endorsing a particular candidate. If no valid petitions from Exchange Members are received by the Record Date, the initial nominees approved and submitted by the Member Nominating Committee shall be nominated as Member Representative Directors by the Nominating Committee. If one or more valid petitions are received by the Record Date, the Secretary shall include

[6] *See* Proposed BZX Rules, Rule 8.6. The Exchange notes that the definition of a Member Representative member is being revised to eliminate the reference to a Stockholder Exchange Member. Currently, a Stockholder Exchange Member means an Exchange Member that also maintains, directly or indirectly, an ownership interest in the Company. The exchange notes that the sole stockholder of BZX is Bats Global Markets Holdings, Inc., which is a wholly owned subsidiary of CBOE Holdings and is not an Exchange member, and as such, the concept of a Stockholder Exchange Member need not be referenced.

[7] The Exchange notes a few differences between the definitions of Industry Director and Record Date in the current Bylaws and the proposed Bylaws. Specifically, the definition of ''Industry Director'' in Article I, subparagraph (o) of the current Bylaws contains references to specific percentages in order to determine whether a Director qualifies as an Industry Director, whereas the definition of ''Industry Director'' in Article III, Section 3.1, of the proposed Bylaws uses the term ''material portion'' in making those same determinations. The definition of ''Record Date'' in Article I, subparagraph (z) of the current Bylaws means a date at least thirty-five (35) days before the date of the annual meeting of stockholders, whereas Article II, Section 2.7 of the proposed Bylaws provides that the Record Date shall be at least 10 days before the date of the annual meeting of stockholders and not more than 60 days before the annual meeting.

[8] *See* Article Second of the current and proposed Certificates.

[9] *See* Current Bylaws, Article III, Section 4 (''Nomination and Election'') and Article VI, Section 2 (''Nominating Committee'').

[10] *See* Current Bylaws, Article I, (s), which defines a ''Member Representative Director''. A Member Representative Director must be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member.

[11] *See* Current Bylaws Article I, subparagraph (t) (''Member Representative member''). *See also,* Article III, Section 4 (''Nomination and Election'') and Article VI, Section 3 (''Member Nominating Committee'') of the current Bylaws.

[12] *See* Article III, Section 3.1 and Article IV, Section 4.3 of the proposed Bylaws.

[13] The term ''Executive Representative'' as defined in the current Bylaws, Article I, means the person identified to the Company by an Exchange Member as the individual authorized to represent, vote, and act on behalf of the Exchange Member. An Executive Representative of an Exchange Member or a substitute shall be a member of senior management of the Exchange Member.

such additional nominees, along with the initial nominees nominated by the Member Nominating Committee, on a list of nominees (the ''List of Candidates'') that is sent to all Exchange Members, accompanied by a notice regarding the time and date of an election to be held at least twenty (20) days prior to the annual or special stockholders' meeting. Each Exchange Member has the right to cast one (1) vote for each available Member Representative Director nomination (the vote must be cast for a person on the List of Candidates and no Exchange Member, together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate). The persons on the List of Candidates who receive the most votes shall be selected as the nominees for the Member Representative Director positions.

For purposes of harmonizing the governance structure and process across all of CBOE Holdings' U.S. securities exchanges, the Exchange proposes to eliminate the Nominating Committee and Member Nominating Committee and adopt a nomination and election process substantially similar to CBOE and C2 for Member Representative Directors (to be renamed ''Representative Directors'').[14] The Exchange notes that unlike the current Bylaws, the proposed Bylaws will not require Representative Directors to be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member, as neither CBOE nor C2 maintain such a requirement. The new process will provide that the ''Representative Director Nominating Body'' shall be responsible for nominating Representative Directors. The Representative Director Nominating Body (''Nominating Body'') is either (i) the Industry-Director Subcommittee of the Nominating and Governance Committee if there are at least two (2) Industry Directors on the Nominating and Governance Committee, or (ii) if the Nominating and Governance Committee has less than two (2) Industry Directors, then the Nominating Body shall mean the Exchange Member Subcommittee of the Advisory Board.[15] The Nominating and Governance Committee shall be bound to accept and nominate the Representative Director nominees recommended by the Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Any person nominated by the Nominating Body and any petition candidate must satisfy the compositional requirements determined by the Board, pursuant to a resolution adopted by the Board, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). Not earlier than December 1 and not later than January 15th (or the first business day thereafter if January 15th is not a business day), the Nominating Body shall issue a circular to Exchange Members identifying the Representative Director nominees. As is the case under the current Bylaws, Exchange Members may nominate alternative candidates for election to the Representative Director positions to be elected in a given year by submitting a petition signed by individuals representing not less than ten percent (10%) of the Exchange Members at that time. Petitions must be filed with the Secretary no later than 5:00 p.m. (Chicago time) on the 10th business day following the issuance of the circular to the Exchange Members identifying the Representative Director nominees (the ''Petition Deadline''). The names of all Representative Director nominees recommended by the Nominating Body and those selected pursuant to a valid and timely petition shall, immediately following their selection, be given to the Secretary who shall promptly issue a circular to all of the Exchange Members identifying all such Representative Director candidates.

If one or more valid petitions are received, the Secretary shall issue a circular to all of the Exchange Members identifying those individuals nominated for Representative Director by the Nominating Body and those individuals nominated for Representative Director through the petition process, as well as of the time and date of a run-off election to determine which individuals will be nominated as Representative Director(s) by the Nominating and Governance Committee (the ''Run-off Election''). The Run-off Election will be held not more than forty-five (45) days after the Petition Deadline. In any Run-off Election, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year; provided, however, that no Exchange Member, either alone or together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate.[16] The Secretary shall issue a circular to all of the Exchange Members setting forth the results of the Run-off Election. The number of individual Representative Director nominees equal to the number of Representative Director positions to be filled that year receiving the largest number of votes in the Run-off Election will be the persons approved by the Exchange Members to be nominated as the Representative Director(s) by the Nominating and Governance Committee for that year. The Exchange believes that, under the proposed Board structure, the Representative Directors serve the same function as the Member Representative Directors in that both directorships give Exchange members a voice in the Exchange's use of self-regulatory authority.

Vacancies

Article III, Section 6 of the current Bylaws provides that during a vacancy of any Director other than a Member Representative Director, the Nominating Committee shall nominate an individual Director and the stockholders of BZX shall elect the new Director.[17] In the event of a vacancy of a Member Representative Director, the Member Nominating Committee shall either (i) recommend an individual to the stockholders to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the stockholders from which the stockholders shall elect the individual to fill such vacancy. The current Bylaws provide that Directors elected to fill a vacancy are to hold office until the expiration of the remaining term.

The Exchange proposes to adopt the same process to fill vacancies as CBOE

[14] Article III, Section 3.1. of the proposed Bylaws requires that at all times, at least 20% of Directors serving on the Board shall be Representative Directors, which is the same percentage required under the current Bylaws (*see* Article III, Section 2(b)(ii) of the current Bylaws). Article III, Section 3.2 of the proposed Bylaws further clarifies that if 20% of the Directors then serving on the Board is not a whole number, the number of required Representative Directors shall be rounded up to the next whole number.

[15] The Exchange notes that if there are less than two (2) Industry Directors on the Nominating and Governance Committee, it would institute an Advisory Board, if not already established.

[16] Article III, Section 3.2 of the CBOE Bylaws provides that in any Run-off Election, a holder of a Trading Permit shall have one vote with respect to each Trading Permit held by such Trading Permit Holder for each Representative Director position to be filled. The Exchange notes that because no ''Trading Permits'' or similar concept exist on the Exchange, it is deviating from this practice and providing instead that each Exchange Member shall have one (1) vote for each Representative Director position to be filled, which the Exchange does not believe is a significant change. The Exchange also notes that other Exchanges have similar practices. *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

[17] The sole stockholder of BZX is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings.

and C2. Specifically, Article III, Section 3.5 of the proposed Bylaws, which is substantially similar to Article III, Section 3.5 of the CBOE Bylaws, will provide that a vacancy on the Board may be filled by a vote of majority of the Directors then in office, or by the sole remaining Director, so long as the elected Director qualifies for the position. Additionally, for vacancies of Representative Directors, the Nominating Body will recommend an individual to be elected, or provide a list of recommended individuals, and the position shall be filled by the vote of a majority of the Directors then in office. Under the proposed Bylaws, Directors elected to fill a vacancy will serve until the next annual meeting of stockholders.

Removals and Resignation

Article III, Section 7 of the current Bylaws provides that any Director may be removed with or without cause by a majority vote of stockholders and may be removed by the Board, provided however, that any Member Representative Director may only be removed for cause, which includes such Director being subject to a Statutory Disqualification. Additionally, a Director shall be immediately removed upon a determination by the Board, by a majority vote of remaining Directors that (a) the Director no longer satisfies the classification for which the Director was elected and (b) the Director's continued service would violate the compositional requirements of the Board. Article III, Section 7 of the current Bylaws also provides that any Director may resign at any time upon notice of resignation to the Chairman of the Board, the President or Secretary. Resignation shall take effect at the time specified, or if no time is specified, upon receipt of the notice.

Under Article III, Section 3.4 of the proposed Bylaws, which is the same as Article III, Section 3.4, of the CBOE Bylaws, a Director who fails to maintain the applicable Industry or Non-Industry qualifications required under the proposed Bylaws, of which the Board shall be the sole judge, will cease being a Director. The Exchange notes that while the current Bylaws do not address the requalification of a Director, Section 3.4 of the proposed Bylaws permits a Director that fails to maintain the applicable qualifications to requalify within the later of forty-five (45) days from the date when the Board determines the Director is unqualified or until the next regular Board meeting following the date when the Board makes such determination. The Director shall be deemed not to hold office (*i.e.,* the Director's seat is considered vacant) following the date when the Board determines the Director is unqualified. Further, the Board shall be the sole judge of whether the Director has requalified. If a Director is determined to have requalified, the Board, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such Director to the Board; provided, however, that the Board shall be under no obligation to return such Director to the Board. Similar to the current Bylaws, Section 3.4 of the proposed Bylaws provides that Representative Directors may only be removed for cause. In addition to specifying that cause includes being subject to a Statutory Disqualification, the proposed Bylaws further lists additional examples of cause in Section 3.4 (*e.g.,* breach of a Representative Director's duty of loyalty to the Exchange or its stockholders and transactions from which a Representative Director derived an improper personal benefit). Lastly, the Exchange notes that under the proposed Bylaws, resignation must be written and must be given to either the Chairman of the Board or the Secretary.

Board Composition

Pursuant to Article III, Section 2 of the current Bylaws, the Board must consist of four (4) or more Directors, and consist at all times of one (1) Director who is the CEO and a sufficient number of Industry, Non-Industry and Member Representative Directors to ensure that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors. Additionally, the number of Member Representative Directors must be at least twenty (20) percent of the Board. The Exchange proposes to replace the Board composition and structure with that of CBOE and C2. As is the case with CBOE and C2, pursuant to Article III, Section 3.1, of the proposed Bylaws, the Board must consist of at least five (5) directors (which is the minimum number of Directors required for the Nominating and Governance Committee), instead of 4 as required by the current Bylaws. Additionally, the following would apply to the new Board structure:

- The number of Non-Industry Directors, Industry Directors and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any) will be determined by the Board pursuant to resolution adopted by the Board.[18]
- The proposed Bylaws provide that the number of Non-Industry Directors cannot be less than the number of Industry Directors, whereas the current Bylaws, as noted above, provide that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors.[19] Unlike the current Bylaws, the proposed Bylaws provide that the CEO is excluded from the calculation of Industry Directors, as is the practice under CBOE Bylaws.[20] Additionally, the Exchange notes that the CBOE Bylaws do not contain the term or concept of ''Independent Directors'' and in order to conform the proposed Bylaws to the CBOE Bylaws, the proposed Bylaws also do not reference ''Independent Directors'' with respect to composition.
- The Board or the Nominating and Governance Committee will make all materiality determinations regarding who qualifies as an Industry Director and Non-Industry Director.[21]
- Unlike the current Bylaws which provide that the CEO shall be the Chairman of the Board,[22] the proposed Bylaws, provide that the Chairman will be appointed by the Board and further provides that the Board may designate an Acting Chairman in the event the Chairman is absent or fails to act.[23]
- Unlike the current Bylaws which provide that a Lead Director must be designated by the Board among the Board's Independent Directors,[24] the proposed Bylaws provide that the Board may, but does not have to, appoint a Lead Director, who if appointed, must be a Non-Industry Director, which is the same practice under CBOE's Bylaws.[25]
- The number of Representative Directors must be at least twenty (20) percent of the Board,[26] which is the same requirement under the current Bylaws as noted above.

Meetings

Annual Meeting of the Stockholders

Article IV, Section 1 of the current Bylaws provides that the annual meeting of the stockholders shall be

[18] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.1.

[19] *See* Current Bylaws, Article III, Section 2.

[20] *Id.*

[21] *Id.*

[22] *See* Current Bylaws, Article III, Section 5.

[23] *See* Proposed Bylaws and CBOE Bylaws, Article III, Sections 3.6 and 3.8.

[24] *See* Current Bylaws, Article III, Section 5.

[25] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.7.

[26] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.2.

held at such place and time as determined by the Board. The Exchange notes that Article II, Section 2.2 of the proposed Bylaws is being amended to conform to Article II, Section 2.2 of the CBOE Bylaws, which provides as a default that if required by applicable law, an annual meeting of stockholders shall be held on the third Tuesday in May of each year or such other date as may be fixed by the Board, at such time as may be designated by the Secretary prior to the giving of notice of the meeting. Section 2.2 of the proposed Bylaws also provides that in no event shall the annual meeting be held prior to the completion of the process for the nomination of Representative Directors. The proposed Bylaws also provide in Article II, Section 2.1 that in addition to the Board, the Chairman (or CEO if there is no Chairman) may designate the location of the annual meeting. The Exchange notes that it is not including the information contained in Article IV, Section 3 of the current Bylaws. Specifically, Section 3 provides that the Secretary of the Exchange (or designee), shall prepare at least ten (10) days before every meeting of stockholders, a complete list of stockholder entitled to vote at the meeting. The Exchange does not believe this provision is necessary given that BZX's sole stockholder is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings (and also notes that neither CBOE nor C2 follow this practice).

Special Meetings of the Stockholders

Article IV, Section 2 of the current Bylaws provides that special meetings of the stockholders may be called by the Chairman, the Board or the President, and shall be called by the Secretary at the request in writing of stockholders owning not less than a majority of the then issued and outstanding capital stock of the Exchange entitled to vote. In order to streamline the rules under which special meetings can be called, the Exchange proposes to adopt the same special meeting provision as Article II, Section 2.3 of the CBOE Bylaws. Particularly, under Article II, Section 2.3 of the proposed Bylaws, special meetings of stockholders may only be called by the Chairman or by a majority of the Board. The CBOE Bylaws do not include the ability of stockholders to request a special meeting. The Exchange does not believe this provision is necessary given that BZX's sole stockholder is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings.

Quorum and Vote Required for Action at a Stockholder Meeting

Article IV, Section 4 of the current Bylaws provides, among other things, that the holders of a majority of the capital stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders. The provision also provides that if there is no quorum at any meeting of the stockholders, the stockholders, present in person or represented by proxy, shall have power to adjourn the meeting until a quorum is present or represented. Additionally, if an adjournment of a meeting of the stockholders is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. Additionally, Article IV, Section 4 provides that when a quorum is present at any meeting, the vote of the holders of a majority of the capital stock having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

The Exchange proposes to adopt Article II, Sections 2.5 and 2.6 of the proposed Bylaws which are the same as Article II, Sections 2.5 and 2.6 of the CBOE Bylaws and similar to Article IV, Section 4 of the current Bylaws. The Exchange notes that unlike the current Bylaws, Article II, Section 2.5 of the proposed Bylaws and CBOE Bylaws do not require notice of an adjourned meeting to be given to each stockholder of record entitled to vote at the meeting if an adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting. The Exchange does not believe this requirement is necessary given that BZX's sole stockholder is Bats Global Markets Holdings, Inc., a wholly owned subsidiary of CBOE Holdings. Additionally, in order to conform Article II, Section 2.6 of the proposed Bylaws to the CBOE Bylaws, the Exchange also proposes to explicitly provide that a plurality of votes properly cast shall elect the directors, notwithstanding the language in Article II, 2.6 that provides that when a quorum is present, a majority of the votes properly cast will decide any question brought before a meeting unless a different vote is required by express provision of statute or the Certificate of Incorporation.

Regular Meetings of the Board

Article III, Sections 8 and 9 of the current Bylaws provide that, with or without notice, a resolution adopted by the Board determines the time and place of the regular meeting and that if no designation as to place is made, then the meeting will be held at the principal business office of the Exchange. Article III, Section 3.10 of the proposed Bylaws, which is the same as Article III, Section 3.10 of the CBOE Bylaws, provides that regular meetings shall be held at such time and place as is determined by the Chairman with notice provided to the full Board.

Special Meetings of the Board

Article III, Section 10 of the current Bylaws provides that special meetings of the Board may be called on a minimum of two (2) days' notice to each Director by the Chairman or the President and shall be called by the Secretary upon written request of three (3) Directors. Article III, Section 3.11 of the proposed Bylaws, which is the same as Article III, Section 3.11 of the CBOE Bylaws, however, provides that special meetings of the Board may be called by the Chairman and shall be called by the Secretary upon written request of any four (4) directors. Additionally, under the proposed Bylaws, the Secretary shall give at least twenty-four (24) hours' notice of such meeting.

Board Quorum

Article III, Section 12 of the current Bylaws provides that a majority of the number of Directors then in office shall constitute a quorum, whereas Article III, Section 3.9 of the proposed Bylaws, which is the same as Article III, Section 3.9 of the CBOE Bylaws, provides that two-thirds of the Directors then in office shall constitute a quorum. Increasing the quorum requirement from a majority to two-thirds will ensure that more Directors are present at meetings of the Board in order to transact business for the Exchange.

Committees of the Board

The current bylaws provide for the following standing committees of the Board: A Compensation Committee, an Audit Committee, a Regulatory Oversight Committee, and an Appeals Committee, each to be comprised of at least three (3) members.[27] The current

[27] *See* Current Bylaws, Article V, Section 1 and Section 2(a).

Bylaws also provide that the Exchange may establish an Executive Committee and a Finance Committee.[28] The Exchange proposes to modify the committees of the Board to eliminate the Audit Committee, Appeals Committee, and Compensation Committee, as well as eliminate the provision relating to a Finance Committee. Additionally, the Exchange proposes to require a mandatory Executive Committee and Nominating and Governance Committee, as well as make several amendments to the Regulatory Oversight Committee provision. The Exchange notes that CBOE and C2 have eliminated their Audit and Compensation Committees and do not maintain an Appeals Committee at the Board level. As previously noted, CBOE and C2 do maintain a Board-level Nominating and Governance Committee, which performs the functions of BZX's current Nominating and Member Nominating Committees, which the Exchange proposes to eliminate.

Elimination of Compensation Committee

The Exchange seeks to eliminate the Compensation Committee because it believes that the Compensation Committee's functions are duplicative of the functions of the Compensation Committee of its parent company, CBOE Holdings. Specifically, under its committee charter, the CBOE Holdings Compensation Committee has authority to assist the CBOE Holdings Board of Directors in carrying out its overall responsibilities relating to executive compensation and also, among other things, (i) recommending the compensation of the CBOE Holdings' CEO and certain other executive officers and (ii) approving and administering all cash and equity-based incentive compensation plans of CBOE Holdings that affect employees of the CBOE Holdings and its subsidiaries. Similarly, under its committee charter, the BZX Compensation Committee has authority to fix the compensation of BZX's CEO and to consider and recommend compensation policies, programs, and practices to the BZX CEO in connection with the BZX CEO's fixing of the salaries of other officers and agents of the Exchange.[29] As such, other than to the extent that the BZX Compensation Committee recommends the compensation of executive officers whose compensation is not already determined by the CBOE Holdings Compensation Committee, its activities are duplicative of the activities of the CBOE Holdings Compensation Committee. Indeed, the Exchange notes that currently the BZX Compensation Committee only fixes the compensation amount of the BZX CEO. The Exchange notes that currently the Exchange's CEO is the CEO (*i.e.,* an executive officer) of CBOE Holdings, and as such, the CBOE Holdings Compensation Committee already performs this function. To the extent that compensation need be determined for any BZX officer who is not also a CBOE Holdings officer in the future, the Board or senior management will perform such action without the use of a compensation committee, as provided for in Article V, Section 5.11 of the proposed Bylaws (which is identical to Article V, Section 5.11 of the CBOE Bylaws). Thus, the responsibilities of the BZX Compensation Committee are duplicated by the responsibilities of the CBOE Holdings Compensation Committee. The Exchange believes that its proposal to eliminate its Compensation Committee is substantially similar to prior actions taken by other securities exchanges with parent company compensation committees to eliminate their exchange-level compensation committees, including CBOE and C2.[30]

Elimination of Audit Committee

The Exchange also proposes to eliminate its Audit Committee because its functions are duplicative of the functions of the Audit Committee of its parent company, CBOE Holdings. Under its committee charter, the CBOE Holdings Audit Committee has broad authority to assist the CBOE Holdings Board in fulfilling its oversight responsibilities in assessing controls that mitigate the regulatory and operational risks associated with operating the Exchange and assist the CBOE Holdings Board of Directors in discharging its responsibilities relating to, among other things, (i) the qualifications, engagement, and oversight of CBOE Holdings' independent auditor, (ii) CBOE Holdings' financial statements and disclosure matters, (iii) CBOE Holdings' internal audit function and internal controls, and (iv) CBOE Holdings' oversight and risk management, including compliance with legal and regulatory requirements. Because CBOE Holdings' financial statements are prepared on a consolidated basis that includes the financial results of CBOE Holdings' subsidiaries, including BZX, the CBOE Holdings Audit Committee's purview necessarily includes BZX. The Exchange notes that unconsolidated financial statements of the Exchange will still be prepared for each fiscal year in accordance with the requirements set forth in its application for registration as a national securities exchange. The CBOE Holdings Audit Committee is composed of at least three (3) CBOE Holdings directors, all of whom must be independent within the meaning given to that term in the CBOE Holdings Bylaws and Corporate Governance Guidelines and Rule 10A–3 under the Act.[31] All CBOE Holdings Audit Committee members must be financially literate (or become financially literate within a reasonable period of time after appointment to the Committee), and at least one (1) member of the Committee must be an ''audit committee financial expert'' as defined by the Securities and Exchange Commission (''SEC''). By contrast, the BZX Audit Committee has a more limited role, focused on BZX. Under its charter, the primary functions of the BZX Audit Committee are focused on (i) BZX's financial statements and disclosure matters and (ii) BZX's oversight and risk management, including compliance with legal and regulatory requirements, in each case, only to the extent required in connection with BZX's discharge of its obligations as a self-regulatory organization. However, to the extent that the BZX Audit Committee reviews financial statements and disclosure matters, its activities are duplicative of the activities of the CBOE Holdings Audit Committee, which is also charged with review of financial statements and disclosure matters. Similarly, the CBOE Holdings Audit Committee has general responsibility for oversight and risk management, including compliance with legal and regulatory requirements, for CBOE Holdings and all of its subsidiaries, including BZX. Thus, the responsibilities of the BZX Audit Committee are fully duplicated by the responsibilities of the CBOE Holdings Audit Committee. The Exchange believes that its proposal to eliminate its

[28] *See* Current Bylaws, Article V, Sections 6(e) and (f), respectively.

[29] The Exchange notes that the Regulatory Oversight Committee (''ROC'') of the BZX Board recommends to the Board compensation for the Chief Regulatory Officer. The Exchange also notes that currently not all executive officers of BZX are required to have their compensation determined by the Compensation Committee.

[30] *See e.g.,* Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017) and Securities Exchange Act Release No. 80522 (April 25, 2017), 82 FR 20409 (May 1, 2017) (SR–C2–2017–009). *See also* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042) and Securities Exchange Act Release No. 62304 (June 16, 2010), 75 FR 36136 (June 24, 2010) (SR–NYSEArca–2010–31).

[31] 17 CFR 240.10A–3.

Audit Committee is substantially similar to prior actions by other securities exchanges with parent company audit committees to eliminate their exchange-level audit committees, including CBOE and C2.[32]

Elimination of Appeals Committee

The Exchange next proposes to eliminate the Appeals Committee. Pursuant to Article V, Section 6(d) of the current Bylaws, the Chairman, with the approval of the Board, shall appoint an Appeals Committee. The Appeals Committee shall consist of one (1) Independent Director, one (1) Industry Director, and one (1) Member Representative Director and presides over all appeals related to disciplinary and adverse action determinations in accordance with the Rules. The Exchange notes that neither CBOE nor C2 maintain a Board-level Appeals Committee. Rather, CBOE and C2 currently maintain an Exchange-level Appeals Committee.[33] The Exchange notes that although it is proposing to eliminate the Appeals Committee as a specified Board-level committee at this time, the Exchange will still have the ability to appoint either a Board-level or exchange-level Appeals Committee pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws. Although, CBOE and C2 have a standing exchange-level Appeals Committee, the Exchange prefers not to have to maintain and staff a standing Appeals Committee, but rather provide its Board the flexibility to determine whether to establish a Board-level or exchange-level Appeals Committee, as needed or desired. The Exchange also notes that other Exchanges similarly do not require standing Appeals Committees.[34] The elimination of the requirement in the bylaws to maintain a standing Appeals Committee would provide consistency among the Bylaws for all of CBOE Holdings' U.S. securities exchanges, while still providing the Board the authority to appoint an Appeals Committee in the future as needed.

Elimination of Finance Committee

Pursuant to Article V, Section 6(f) of the current Bylaws, the Chairman, with the approval of the Board, may appoint a Finance Committee. The Finance Committee shall advise the Board with respect to the oversight of the financial operations and conditions of the Exchange, including recommendations for the Exchange's annual operating and capital budgets. The Exchange notes that it does not currently have a Finance Committee and that, similarly, CBOE and C2 do not have an exchange-level Finance Committee. As the Exchange currently does not maintain, and has no current intention of establishing, an exchange-level Finance Committee, it does not believe it is necessary to maintain this provision. The Exchange notes that should it desire to establish a Finance Committee in the future, it still maintains the authority to do so under Article IV, Section 4.1 of the proposed Bylaws.

Changes to the Regulatory Oversight Committee

Article V, Section 6(c) of the current Bylaws relates to the Regulatory Oversight Committee (''ROC''), which oversees the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities. The Exchange proposes to adopt Article IV, Section 4.4, which amends the ROC provision to conform to Article IV, Section 4.4 of the CBOE Bylaws.[35] First, the Exchange proposes to specify that the ROC shall consist of at least three (3) directors, all of whom are Non-Industry Directors who are appointed by the Board on the recommendation of the Non-Industry Directors serving on the Nominating and Governance Committee (including the designation of the Chairman of the ROC). While the current Bylaws also require all ROC members to be Non-Industry Directors, it does not specify a minimum number of directors. The current Bylaws also provide that the Chairman of the Board (instead of a Nominating and Governance Committee), with approval of the Board, appoints the ROC members.

Next, while the current Bylaws explicitly delineate some of the ROC's responsibilities, the Exchange proposes to provide more broadly that the ROC shall have the duties and may exercise such authority as may be prescribed by resolution of the Board, the Bylaws or the Rules of the Exchange. Particularly, Article V, Section 6(c) of the current Bylaws provide that the ROC shall oversee the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities, assess the Exchange's regulatory performance, assist the Board and Board committees in reviewing the regulatory plan and the overall effectiveness of Exchange's regulatory functions and, in consultation with the CEO, establish the goals, assess the performance, and fix the compensation of the Chief Regulatory Officer (''CRO''). The Exchange notes that the ROC will continue to have the foregoing duties and authority, with the exception that the ROC will no longer consult the CEO with respect to establishing the goals, assessing the performance and fixing compensation of the CRO. The proposed change to eliminate the CEO's involvement in establishing the goals, assessing the performance and fixing compensation of the CRO is consistent with the Exchange's desire to maintain the independence of the regulatory functions of the Exchange. The Exchange notes that each of the abovementioned proposed changes provide for the same language and appointment process used by CBOE and C2 with respect to the ROC, which provides consistency among the CBOE Holdings U.S. securities exchanges.[36]

Creation of a Mandatory Executive Committee

Article V, Section 6(e) of the current Bylaws provides that the Chairman, with approval of the Board, may appoint an Executive Committee, which shall, to the fullest extent permitted by Delaware and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange between meetings of the Board.[37] The current Bylaws provide that the number of Non-Industry Directors on the Executive Committee shall equal or exceed the number of Industry Directors on the Executive Committee. In addition, the percentage of Independent Directors on the Executive Committee shall be at least as great as the percentage of Independent Directors on the whole Board, and the percentage of Member Representative Directors on the Executive Committee shall be at least as great as the percentage of Member Representative Directors on the whole Board.

Under the proposed Bylaws, the Exchange proposes to require that the

[32] *See, e.g.,* Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010) and Securities Exchange Act Release No. 64128 (March 25, 2011), 76 FR 17973 (March 31, 2011) (SR–C2–2011–003). *See also,* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042).

[33] *See e.g.,* CBOE Rule 2.1 and C2 Chapter 19, which incorporates by reference CBOE Chapter XIX (Hearings and Review), which references the Appeals Committee.

[34] For example, neither the Bylaws nor Rules of BOX Options Exchange, LLC mandate an Appeals Committee. *See* Bylaws of Box Options Exchange LLC and Rules of Box Options Exchange, LLC.

[35] The Exchange does not intend at this time to rename the ROC the ''Regulatory Oversight and Compliance Committee'' (''ROCC''), which is the name of the equivalent committee of CBOE and C2.

[36] *See* CBOE Bylaws Article IV, Section 4.4.

[37] The Exchange does not presently have an Executive Committee.

Exchange maintain an Executive Committee and delineates its composition and functions in Article IV, Section 4.2 of the proposed Bylaws. Similar to the current Bylaw provisions relating to the Executive Committee, the proposed Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange. Unlike the current Executive Committee provisions, however, the proposed Executive Committee shall not have the power and authority of the Board to (i) approve or adopt or recommend to the stockholders any action or matter (other than the election or removal of Directors) expressly required by Delaware law to be submitted to stockholders for approval, including without limitation, amending the certificate of incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Exchange's property and assets, or approval of a dissolution of the Exchange or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any bylaw of the Exchange. Additionally, Section 4.2 of the proposed Bylaws provides that the Executive Committee shall consist of the Chairman, the CEO (if a Director), the Lead Director, if any, at least one (1) Representative Director and such other number of Directors that the Board deems appropriate, provided that in no event shall the number of Non-Industry Directors constitute less than the number of Industry Directors serving on the Executive Committee (excluding the CEO from the calculation of Industry Directors for this purpose). The Directors (other than the Chairman, CEO and Lead Director, if any) serving on the Executive Committee shall be appointed by the Board on the recommendation of the Nominating and Governance Committee of the Board. Directors serving on the Executive Committee may be removed by the Board in accordance with the bylaws. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of the Executive Committee shall be a voting member and shall serve for a term of one (1) year expiring at the first regular meeting of Directors following the annual meeting of stockholders each year or until their successors are appointed. The Exchange notes that CBOE and C2 have an Executive Committee and that the proposed composition requirements and functions are the same as CBOE and C2.[38]

Elimination of Nominating and Member Nominating Committees and Creation of Nominating and Governance Committee

The Exchange also proposes to eliminate the current Nominating and Member Nominating Committees, and to prescribe that their duties be performed by the new Nominating and Governance Committee of the Board (as discussed below). The Nominating Committee is a non-Board committee and is elected on an annual basis by vote of the Exchange's sole stockholder, Bats Global Markets Holdings, Inc.[39] The Nominating Committee is primarily charged with nominating candidates for election to the Board at the annual stockholder meeting and all other vacant or new Director positions on the Board and ensuring, in making such nominations, that candidates meet the compositional requirements set forth in the bylaws. The Member Nominating Committee is also a non-Board committee and elected on an annual basis by vote of the Exchange's sole stockholder, Bats Global Markets Holdings, Inc.[40] Each Member Nominating Committee member must be a Member Representative member (*i.e.,* an officer, director, employee or agent of an Exchange Member that is not a Stockholder Exchange Member).[41] The Member Nominating Committee is primarily charged with nominating candidates for each Member Representative Director position on the Board.

The Exchange proposes to adopt a Nominating and Governance Committee which would have the same responsibilities currently delegated to the CBOE and C2 Nominating and Governance Committees. Specifically, the Exchange proposes to adopt Article IV, Section 4.3, which is the same as Article IV, Section 4.3 of the CBOE Bylaws, which would provide that the Nominating and Governance Committee shall consist of at least five (5) directors and shall at all times have a majority of Non-Industry Directors. Members of the committee would be recommended by the Nominating and Governance Committee for approval by the Board and shall not be subject to removal except by the Board. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance Committee for approval by the Board. The Nominating and Governance Committee would be primarily charged with the authority to nominate individuals for election as Directors of the Exchange. The Nominating and Governance Committee would also have such other duties and may exercise such other authority as may be prescribed by resolution of the Board and the Nominating and Governance Committee charter as adopted by resolution of the Board. If the Nominating and Governance Committee has two (2) or more Industry Directors, there shall be an Industry-Director Subcommittee consisting of all of the Industry Directors then serving on the Nominating and Governance Committee, which shall act as the Representative Director Nominating Body (as previously discussed) if and to the extent required by the proposed Bylaws. The Exchange believes that the duties and functions of the eliminated Nominating and Member Nominating Committees would continue to be performed and covered in the new corporate governance structure under the proposed Bylaws.

Creation of an Advisory Board

The Exchange proposes to adopt Article VI, Section 6.1, which provides that the Board may establish an Advisory Board which shall advise the Board and management regarding matters of interest to Exchange Members. The Exchange believes the Advisory Board could provide a vehicle for Exchange management to receive advice from the perspective of Exchange Members and regarding matters that impact Exchange Members. Under Article VI, Section 6.1 of the proposed Bylaws, the Board would determine the number of members of an Advisory Board, if established, including at least two members who are Exchange Members or persons associated with Exchange Members. Additionally, the CEO or his or her designee would serve as the Chairman of an Advisory Board and the Nominating and Governance Committee would recommend the members of an Advisory Board for approval by the Board. There would also be an Exchange Member Subcommittee of the Advisory Board consisting of all members of the Advisory Board who are Exchange Members or persons associated with Exchange Members, which shall act as the Representative Director Nominating Body if and to the extent required by the proposed Bylaws. An Advisory Board would be completely advisory in nature and not be vested with any Exchange

[38] *See* CBOE Bylaws, Article IV, Section 4.2.

[39] *See* Article VI, Sections 1 and 2. A Nominating Committee member may simultaneously serve on the Nominating Committee and the Board, unless the Nominating Committee is nominating Director candidates for the Director's class. The number of Non-Industry members on the Nominating Committee shall equal or exceed the number of Industry members on the Nominating Committee.

[40] *See* Article VI, Sections 1 and 3.

[41] *See* Article VI, Section 3.

decision-making authority or other authority to act on behalf of the Exchange. The Exchange notes that CBOE and C2 currently maintain an Advisory Board, with the same proposed compositional requirements and functions.[42] The Exchange also notes, however, that while for CBOE and C2 an Advisory Board is mandatory, an Advisory Board for the Exchange would be permissive as the Exchange desires flexibility to determine if an Advisory Board should be established in the future. The Exchange notes that there is no statutory requirement to maintain an Advisory Board or Advisory Committee and indeed, other Exchanges, including BZX itself, do not require the establishment of an Advisory Board.[43]

Officers, Agents and Employees

General

Article VII, Section 1 of the current Bylaws provides that that an individual may not hold office as both the President and Secretary, whereas the CBOE Bylaws provide an individual may not hold office as both the CEO and President and that the CEO and President may not hold office as either the Secretary or Assistant Secretary.[44] As these requirements are similar, if not more restrictive under the CBOE Bylaws, the Exchange proposes to include the same provisions in the CBOE Bylaws in Article V, Section 5.1 of the proposed Bylaws.

Resignation and Removal

Article VII, Section 3 of the current Bylaws provides that any officer may resign at any time upon notice of resignation to the Chairman and CEO, the President or the Secretary. The Exchange proposes to amend the provision relating to officer resignations to provide that any officer may resign at any time upon delivering written notice to the Exchange at its principal office, or to the CEO or Secretary.[45] Article VII, Section 3 of the current Bylaws also provides that any officer may be removed, with or without cause, by the Board. The Exchange proposes to provide that, in addition to being removed by the Board, an officer may be removed at any time by the CEO or President (provided that the CEO can only be removed by the Board).[46] Provisions relating to resignation and removal of officers in the proposed Bylaws will be identical to the relevant provisions of the CBOE Bylaws.[47]

Compensation

Article VII, Section 4 of the current Bylaws provides that the CEO, after consultation of the Compensation Committee, shall fix the salaries of officers of the Exchange and also states that the CEO's compensation shall be fixed by the Compensation Committee. In order to conform compensation practices to those of CBOE and C2, the Exchange proposes to modify these provisions to provide that in lieu of the CEO, the Board, unless otherwise delegated to a committee of the Board or to members of senior management, may fix the salaries of officers of the Exchange.[48] Additionally, in conjunction with the proposed change to eliminate the BZX Compensation Committee, the Exchange proposes to eliminate language providing that the CEO's compensation is fixed by the Compensation Committee.

Chief Executive Officer and President

Article VII, Section 6 of the current Bylaws pertains to the CEO. The current Bylaws provide that the CEO shall be the Chairman of the Board. CBOE and C2, however, do not require that the CEO be Chairman of the Board. The Exchange desires similar flexibility in appointing its Chairman and, therefore, this requirement is not carried over in the proposed Bylaws.[49] Instead, Article V, Section 5.1 of the proposed Bylaws provides that the CEO shall be appointed by an affirmative vote of the majority of the Board, and may but need not be, the Chairman of the Board. The Exchange notes that to conform the language to the CBOE Bylaws, Article V, Section 5.2 of the proposed Bylaws also states that the CEO shall be the official representative of the Exchange in all public matters and provides that the CEO shall not engage in another business during his incumbency except with approval of the Board. Additionally, the Exchange proposes not to carry over language in the current Bylaws that provides that the CEO shall not participate in executive sessions of the Board, as CBOE Bylaws do not contain a similar restriction.

Article V, Section 5.3 of the proposed Bylaws proposes to provide that the President shall be the chief operating officer of the Exchange. The Exchange notes that the current Bylaws do not address appointing a chief operating officer. Additionally, while Article VII, Section 7 of the current Bylaws provides that the President shall have all powers and duties usually incident to the office of the President, except as specifically limited by a resolution of the Board, and shall exercise such other powers and perform such other duties as may be assigned to the President from time to time by the Board, Article V, Section 5.3 of the proposed Bylaws further states that in the event that the CEO does not act, the President shall perform the officer duties of the CEO, which is consistent with the language in the CBOE Bylaws.

Other Officers

The Exchange notes the following modifications relating to officer provisions in the proposed Bylaws, which are intended to conform the proposed Bylaws to the CBOE Bylaws:

- Article V, Sections 5.1 and 5.4 of the proposed Bylaws, which is identical to Article V, Sections 5.1 and 5.4 of the CBOE Bylaws, will provide that the Chief Financial Officer (''CFO'') is designated as an officer of the Exchange and that the Board and CEO may assign the CFO powers and duties as they see fit. The Exchange notes that the role of a CFO is not referenced in the current Bylaws.
- The proposed Bylaws eliminate the requirement in the current Bylaws that the Chief Regulatory Officer (''CRO'') is a designated officer of the Exchange.[50] As noted above, the Exchange desires to conform its Bylaws to the Bylaws of CBOE and the CBOE Bylaws do not reference the role of the CRO. The Exchange notes that notwithstanding the proposed elimination of the CRO provision, there is no intention to eliminate the role of the CRO.
- Article VII, Section 10 of the current Bylaws requires the Secretary to keep official records of Board meetings. The Exchange proposes to add to Article V, Section 5.6 of the proposed Bylaws, which is similar to the current Bylaws and based on Article V, Section 5.6 of the CBOE Bylaws, which requires that in addition to all meetings of the Board, the Secretary must keep official records of all meetings of stockholders and of Exchange Members at which action is taken.
- Article V, Section 5.7 of the proposed Bylaws, which is based on Article 5.7 of the CBOE Bylaws, would provide that the Treasurer perform such duties and powers as the Board, the CEO or CFO proscribes (whereas Article VII, Section 12 of the current Bylaws provides that such duties and powers

[42] *See* Article VI, Section 6.1 of CBOE Bylaws.

[43] For example, BOX Options Exchange, LLC does not require an advisory committee.

[44] *See* Article V, Section 5.1 of CBOE Bylaws.

[45] *See* Proposed Bylaws, Article V, Section 5.9.

[46] *See* Proposed Bylaws, Article V, Section 5.8.

[47] *See* Article V, Sections 5.8 and 5.9 of the CBOE Bylaws.

[48] *See* Proposed Bylaws, Article V, Section 5.11.

[49] The Exchange notes that currently the CEO of BZX is also Chairman of the Board.

[50] *See* Current Bylaws, Article VII, Section 9.

may be proscribed by the Board, CEO or President).

• While the current Bylaws contain separate provisions relating to an Assistant Secretary and an Assistant Treasurer, the proposed Bylaws do not, as CBOE Bylaws similarly do not contain such provisions.[51]

Amendments

Article IX, Section 1 of the current Bylaws provides that the bylaws may be altered, amended, or repealed, or new bylaws adopted, (i) by written consent of the stockholders of the Exchange or (ii) at any meeting of the Board by resolution. The proposed Bylaws, however, eliminate the ability of stockholders to act by written consent and instead provides that in order for the stockholders of the Exchange to alter, amend, repeal or adopt new bylaws, there must be an affirmative vote of the stockholders present at any annual meeting at which a quorum is present.[52] Additionally, unlike the current Bylaws, the Exchange proposes to explicitly provide that changes to the bylaws shall not become effective until filed with or filed with and approved by the SEC, to avoid confusion as to when proposed amendments to the Bylaws can take effect.[53] The proposed provisions are the same as the corresponding provisions in the CBOE Bylaws.[54]

General Provisions

The Exchange proposes to add Article VIII, Section 8.1 of the proposed Bylaws, which is the same as Article VIII, Section 8.1 of the CBOE Bylaws, that unless otherwise determined by the Board, the fiscal year of the Exchange ends on the close of business December 31 each year, as compared to Article XI, Section 1 of the current Bylaws, which provides that the fiscal year of the Exchange shall be as determined from time to time by the Board. Note that the Exchange's fiscal year currently ends on the close of business December 31 each year.

The Exchange also proposes to add Article VIII, Section 8.2 of the proposed Bylaws, which is the same as Article VIII, Section 8.2 of the CBOE Bylaws, which governs the execution of instruments such as checks, drafts and bills of exchange and contracts and which is similar to Article XI, Section 6 of the current Bylaws.

Next, the Exchange proposes to adopt Article VIII, Section 8.4, which provides that, except as the Board may otherwise designate, the Chairman of the Board, CEO, CFO or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Exchange (with or without power of substitution) at, any meeting of stockholders or shareholders of any other corporation or organization, the securities of which may be held by the Exchange. The proposed provision is the same as Article VIII, Section 8.4 of the CBOE Bylaws and similar to Article XI, Section 7 of the current Bylaws, which provides generally that the CEO has the power and authority to act on behalf of the Company at any meeting of stockholders, partners or equity holders of any other corporation or organization, the securities of which may be held by the Exchange.

The Exchange proposes to adopt Article VIII, Section 8.7, which governs transactions with interested parties. Proposed Article VIII, Section 8.7 is the same as Article VIII, Section 8.7 of the CBOE Bylaws and substantially similar to language contained in Article III, Section 18 of the current Bylaws. Similarly, the Exchange proposes to adopt Article VIII, Section 8.8 which governs severability and is the same as Article VIII, Section 8.8 of CBOE Bylaws and substantially similar to Article XI, Section 8 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.10 which provides that the board may authorize any officer or agent of the Corporation to enter into any contract, or execute and deliver any instrument in the name of, or on behalf of the Corporation. The proposed language is the same as the language in Article VIII, Section 8.10 of the CBOE Bylaws and similar to related language in Article XI, Section 6 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.12, relating to books and records and which is the same as Article VIII, Section 8.12 of CBOE Bylaws and which is similar to language contained in Article XI, Section 3 of the current Bylaws.

New Bylaw Provisions

The Exchange proposes to add provisions to the proposed Bylaws that are not included in the current Bylaws in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges. Specifically, the Exchange proposes to add the following to the proposed Bylaws:

• Article VII, which addresses notice requirements for any notice required to be given by the bylaws or Rules, including Article VII, Section 7.2, which provides whenever any notice to any stockholder is required, such notice may be given by a form of electronic transmission if the stockholder to whom such notice is given has previously consented to the receipt of notice by electronic transmission. The language mirrors the language set forth in Article VII, Section 7.2 of the CBOE Bylaws.

• Article VIII, Section 8.3 which is identical to Article VIII, Section 8.3 of the CBOE Bylaws, which provides that the corporate seal, if any, shall be in such form as approved by the board or officer of the Corporation.

• Article VIII, Section 8.5, which provides that a certificate by the Secretary, or Assistant Secretary, if any, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Exchange shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action. This language is identical to the language contained in Article VIII, Section 8.5 of the CBOE Bylaws.

• Article VIII, Section 8.6., which is identical to Article VIII, Section 8.6 of the CBOE Bylaws, which provides all references to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended, altered or restated and in effect from time to time.

• Article VIII, Section 8.11, which provides that the Exchange may lend money or assist an employee of the Exchange when the loan, guarantee or assistance may reasonably benefit the Exchange. This language is identical to the language contained in Article VIII, Section 8.11 of the CBOE Bylaws.

Eliminated Bylaw Provisions

The Exchange notes that the following provisions in the current Bylaws are not carried over in either the proposed Bylaws or proposed Certificate in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges:

• Article III, Sections 13 and 17. Section 13 provides that a director who is present at a Board or Board Committee meeting at which action is taken is conclusively presumed to have assented to action being taken unless his or her dissent or election to abstain is entered into the minutes or filed. Section 17 provides that the Board has the power to interpret the Bylaws and any interpretations made shall be final and conclusive. The Exchange does not

[51] *See* Article VII, Sections 11 and 13 of the current Bylaws.

[52] *See* Proposed Bylaws, Article IX, Section 9.2.

[53] *See* Proposed Bylaws, Article IX, Section 9.3.

[54] *See* Article IX, Sections 9.2 and 9.3 of the CBOE Bylaws.

wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.

• Article IX, Section 2, which relates to the Board's authority to adopt emergency Bylaws to be operative during any emergency resulting from, among other things, any nuclear or atomic disaster or attack on the United States, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee cannot readily be convened for action. Similarly, Article IX, Section 3, provides that the Board, or Board's designee, in the event of extraordinary market conditions, has the authority to take certain actions. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.

• Article X, Section 2, which relates to disciplinary proceedings and provides that the Board is authorized to establish procedures relating to disciplinary proceedings involving Exchange Members and their associated persons, as well as impose various sanctions applicable to Exchange Members and persons associated with Exchange Members. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. Additionally, the Exchange notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such procedures and/or rules if necessary or desirable.[55]

• Article X, Section 3, which relates to membership qualifications and provides, among other things, that the Board has authority to adopt rules and regulations applicable to Exchange Members and Exchange Member applicants, as well as establish specified and appropriate standards with respect to the training, experience, competence, financial responsibility, operational capability, and other qualifications. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. The Exchange again notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such rules and regulations if necessary or desirable.

• Article X, Section 4, which relates to fees, provides that the Board has authority to fix and charge fees, dues, assessments, and other charges to be paid by Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls; provided that such fees, dues, assessments, and other charges shall be equitably allocated among Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls. The Exchange does not wish to include this section of the provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. To the extent the Board wishes to adopt such fees and dues, it has the authority pursuant to Article III, Section 3.3 of the proposed Bylaws. The Exchange notes that with respect to the language in Article X, Section 4 of the current Bylaws relating to the prohibition of using revenues received from fees derived from its regulatory function or penalties for non-regulatory purposes, similar language exists within CBOE Rules, particularly, CBOE Rule 2.51. In order to conform the Bylaws, the Exchange wishes to similarly relocate this language to its rules, instead of maintaining it in its Bylaws. Specifically, the Exchange proposes to adopt new Rule 15.2, which language is based off CBOE Rule 2.51. The Exchange notes that this provision is designed to preclude the Exchange from using its authority to raise regulatory funds for the purpose of benefitting its Stockholder. Unlike CBOE Rule 2.51 however, proposed Rule 15.2 explicitly provides that regulatory funds may not be distributed to the stockholder. The Exchange notes that this language is currently contained in Article X, section 4 of the current Bylaws. Additionally, while not explicit in CBOE Rule 2.51, the Exchange notes that the rule filing that adopted Rule 2.51 does similarly state that regulatory funds may be not distributed to CBOE's stockholder.[56] Although proposed Rule 15.2 will differ slightly from CBOE Rule 2.51, the Exchange wishes to make this point clear to avoid potential confusion. Lastly, the Exchange notes that unlike Article X, Section 4 of the current Bylaws, proposed Rule 15.2, like CBOE Rule 2.51, will provide that notwithstanding the preclusion to use regulatory revenue for non-regulatory purposes, in the event of liquidation of the Exchange, Bats Global Markets Holdings, Inc. will be entitled to the distribution of the remaining assets of the Exchange.

• Certain sections in Article XI, including Section 2 (''Participation in Board and Committee Meetings''), Section 4 (''Dividends'') and Section 5 (''Reserves''). More specifically, Article XI, Section 2 governs who may attend Board and Board committee meetings pertaining to the self-regulatory function of the Exchange and particularly, provides among other things, that Board and Board Committee meetings relating to the self-regulatory function of the Company are closed to all persons other than members of the Boards, officers, staff and counsel or other advisors whose participation is necessary or appropriate.[57] Article XI, Section 4 provides that dividends may be declared upon the capital stock of the Exchange by the Board. Article XI, Section 5 provides that before any dividends are paid out, there must be set aside funds that the Board determines is proper as a reserves. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' U.S. securities exchanges.

(c) Changes to Rules

The Exchange will also amend its rules in conjunction with the proposed changes to its bylaws. The proposed rule changes are set forth in Exhibit 5E. First, the Exchange proposes to update the reference to the bylaws in Rule 1.1. Next, the Exchange notes that in order to keep the governance documents uniform, it proposes to eliminate the definitions of ''Industry member'', ''Member Representative member'' and ''Director'' from Article I of the current Bylaws. The Exchange notes that Industry members and Member Representative members are still used for Hearing Panels pursuant to Rule 8.6. As such, the Exchange proposes to relocate these definitions to the rules (specifically, Rule 8.6) and proposes to update the reference to the location of the definitions in Rule 8.6 accordingly (*i.e.,* refer to the definition in Rule 8.6

[55] The Exchange notes that the language in proposed Article III, Section 3.3 is similar to language provided for in Article X, Section 1 of the current Bylaws.

[56] *See* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088).

[57] Article XI, Section 2 also provides that in no event shall members of the Board of Directors of CBOE Holdings, Inc., CBOE V, LLC or Bats Global Markets Holdings, Inc. who are not also members of the Board, or any officers, staff, counsel or advisors of CBOE Holdings, Inc., CBOE V, LLC or Bats Global Markets Holdings, Inc. who are not also officers, staff, counsel or advisors of the Company (or any committees of the Board), be allowed to participate in any meetings of the Board (or any committee of the Board) pertaining to the self-regulatory function of the Company (including disciplinary matters).

as opposed to the definition in the bylaws). The Exchange also proposes to eliminate language in Rule 2.10 that, in connection with a reference to ''Director'', states ''as such term is defined in the Bylaws of the Exchange''. As the definition of Director is being eliminated in the Bylaws, the Exchange is seeking to remove the obsolete language in Rule 2.10.

Lastly, as discussed above, the Exchange proposes to add new Rule 15.2, which will provide that any revenues received by the Exchange from fees derived from its regulatory function or regulatory fines will not be used for non-regulatory purposes or distributed to the Stockholder, but rather, shall be applied to fund the legal and regulatory operations of the Exchange (including surveillance and enforcement activities), or be used to pay restitution and disgorgement of funds intended for customers (except in the event of liquidation of the Exchange, which case Bats Global Markets Holdings, Inc. will be entitled to the distribution of the remaining assets of the Exchange). As more fully discussed above in the ''Eliminated Bylaw Provisions'' section, the proposed change is similar to Article X, Section 4 of the current Bylaws and based on Rule 2.51 of CBOE Rules.

The Exchange believes that the proposed changes to the current Bylaws and current Certificate would align its governance documents with the governance documents of each of CBOE and C2, which preserves governance continuity across each of CBOE Holdings' six U.S. securities exchanges. The Exchange also notes that the Exchange will continue to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply and to enforce compliance by its Members and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the Rules, as required by Section 6(b)(1) of the Act.[58]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[59] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[60] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[61] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that its proposal to adopt the Board and committee structure and related nomination and election processes set forth in the proposed Bylaws are consistent with the Act, including Section 6(b)(1) of the Act, which requires, among other things, that a national securities exchange be organized to carry out the purposes of the Act and comply with the requirements of the Act. In general, the proposed changes would make the Board and committee composition requirements, and related nomination and election processes, more consistent with those of its affiliates, CBOE and C2. The Exchange therefore believes that the proposed changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated with members. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3)[62] and (b)(5) of the Act in particular, in that it is designed to assure a fair representation of Exchange Members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer; and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. For example, the number of Non-Industry Directors must not be less than the number of Industry Directors. Additionally, the Exchange believes that the 20% requirement for Representative Directors and the proposed method for selecting Representative Directors ensures fair representation and allows members to have a voice in the Exchange's use of its self-regulatory authority. For instance, the proposed Bylaws includes a process by which Exchange members can directly petition and vote for representation on the Board.

Additionally, the Exchange believes the proposed Certificate, Bylaws and rules support a corporate governance framework, including the proposed Board and Board Committee structure that preserves the independence of the Exchange's self-regulatory function and insulates the Exchange's regulatory functions from its market and other commercial interests so that the Exchange can continue to carry out its regulatory obligations. Particularly, the proposed governance documents provide that Directors must take into consideration the effect that his or her actions would have on the ability of the Company to carry out its regulatory responsibilities under the Act and the proposed changes to the rules includes the restriction on using revenues derived from the Exchange's regulatory function for non-regulatory purposes, which further underscores the independence of the Exchange's regulatory function. The Exchange also believes that requiring that the number of Non-Industry Directors not be less than the number of Industry Directors and requiring that all Directors serving on the ROC be Non-Industry Directors would help to ensure that no single group of market participants will have the ability to systematically disadvantage other market participants through the exchange governance process, and would foster the integrity of the Exchange by providing unique, unbiased perspectives.

Moreover, the Exchange believes that the new corporate governance framework and related processes being proposed are consistent with Section 6(b)(5) of the Act because they are substantially similar to the framework and processes used by CBOE and C2, which have been well-established as fair

[58] 15 U.S.C. 78f(b)(1).

[59] 15 U.S.C. 78f(b).

[60] 15 U.S.C. 78f(b)(5).

[61] *Id.*

[62] 15 U.S.C. 78f(b)(3).

and designed to protect investors and the public interest.[63] The Exchange believes that conforming its governance documents based on the documents of the CBOE and C2 exchanges would streamline the CBOE Holdings' U.S. securities exchanges' governance process, create equivalent governing standards among the exchanges and also provide clarity to its members, which is beneficial to both investors and the public interest.

To the extent there are differences between the current CBOE and C2 framework and the proposed Exchange framework, the Exchange believes the differences are reasonable. First, the Exchange believes it's reasonable to provide that in Run-Off Elections, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year instead of one vote per Trading Permit held, because the Exchange, unlike CBOE and C2, does not have Trading Permits and because other exchanges have similar practices[64] The Exchange believes it's also reasonable not to require the establishment of an Advisory Board, as the Exchange desires flexibility in maintaining such a Committee, and is not statutorily required to maintain such a committee. Additionally, the Exchange notes that it currently does not have an Advisory Board. Lastly, the Exchange notes that it is reasonable to not require a standing exchange-level Appeals Committee because the Board still has the authority to appoint an Appeals Committee in the future as needed pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws and because an Appeals Committee is not statutorily required.

Finally, the proposed amendments to the rules as discussed above are non-substantive changes meant to merely update the Rules in light of the proposed changes to the current Bylaws and to relocate certain provisions to better conform the Exchange's governance documents to those of CBOE and C2.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of BZX and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBZX–2017–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2017–55. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2017–55 and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18791 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[63] *See e.g.,* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088); Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010); and Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017).

[64] *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

[65] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission; Office of FOIA Services; 100 F Street NE.; Washington, DC 20549–2736

Extension:
Form N–6F, SEC File No. 270–185, OMB Control No. 3235–0238

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Form N–6F (17 CFR 274.15), Notice of Intent to Elect to be Subject to Sections 55 through 65 of the Investment Company Act of 1940.'' The purpose of Form N–6F is to notify the Commission of a company's intent to file a notification of election to become

subject to Sections 55 through 65 of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act''). Certain companies may have to make a filing with the Commission before they are ready to elect to be regulated as a business development company.[1] A company that is excluded from the definition of ''investment company'' by Section 3(c)(1) because it has fewer than one hundred shareholders and is not making a public offering of its securities may lose such an exclusion solely because it proposes to make a public offering of securities as a business development company. Such company, under certain conditions, would not lose its exclusion if it notifies the Commission on Form N–6F of its intent to make an election to be regulated as a business development company. The company only has to file a Form N–6F once.

The Commission estimates that on average approximately 12 companies file these notifications each year. Each of those companies need only make a single filing of Form N–6F. The Commission further estimates that this information collection imposes burden of 0.5 hours, resulting in a total annual PRA burden of 6 hours. Based on the estimated wage rate, the total cost to the industry of the hour burden for complying with Form N–6F would be approximately $2,070.

The collection of information under Form N–6F is mandatory. The information provided under the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 31, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18859 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[1] A company might not be prepared to elect to be subject to Sections 55 through 65 of the 1940 Act because its capital structure or management compensation plan is not yet in compliance with the requirements of those sections.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81504; File No. SR–BOX–2017–28]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish Fees and Rebates for the Trading Floor on the BOX Market LLC (''BOX'') Options Facility

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 21, 2017, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to establish fees and rebates for the Trading Floor on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on August 22, 2017. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to create a new fee and rebate structure for manual transactions initiated from the BOX Trading Floor. The Exchange recently adopted rules to allow for an open outcry Trading Floor.[5]

The Exchange represented in its filing with the Securities and Exchange Commission (''SEC'' or the ''Commission'') to establish the Trading Floor that, ''the Exchange has not yet determined the fees for transactions executed on the Trading Floor. Prior to commencing trading on the Trading Floor, the Exchange will file proposed fees with the Commission.'' [6] As the Exchange intends to begin trading on the Trading Floor on August 22, 2017, it is submitting this filing to describe the fees that will be applicable to transactions presented on the Trading Floor.

Section I. Exchange Fees

The Exchange proposes to amend the language to the title of Section I. to differentiate between electronic transaction fees and manual transaction fees. Currently, the Exchange assesses Exchange Fees based on transaction types and account types. The Exchange proposes to add ''Electronic Transaction'' and remove ''Exchange'' to the title of Section I to distinguish that Section I fees only apply to transactions that are initiated electronically through

[5] *See* Securities Exchange Release No. 81292 (August 2, 2017), 82 FR 37144 (August 8, 2017)(Order Approving SR–BOX–2016–48 as modified by Amendment Nos. 1 and 2).

[6] *Id.*

the Trading Host as opposed to transactions initiated and presented on the Trading Floor in open outcry (manual transactions).[7] The Exchange also proposes to clarify that a Participant's electronic and manual transaction volume will be considered for purposes of calculating the volume thresholds within the fee schedule, including the Tiered Volume Rebates for Non-Auction Transactions (Section I.A.1), Primary Improvement Order fees (Section 1.B.1), and BOX Volume Rebate (Section I.B.2). Further, the Exchange proposes to make changes throughout the Fee Schedule to distinguish between electronic transaction and manual transaction fees.

Section II. Manual Transaction Fees

The Exchange then proposes to adopt a new section (Section II. Manual Transaction Fees) and renumber the subsequent sections accordingly. As discussed above, manual transactions are transactions initiated and presented on the Trading Floor in open outcry, as opposed to those initiated electronically. Manual transactions consist of Qualified Open Outcry (''QOO'') Orders.[8] A QOO Order must be entered as a two-sided order, an initiating side and a contra-side, and the QOO Order fees, rebates and applicable fee and rebate caps will apply to both sides of the order.

Similar to the fees assessed for electronic transactions, the Exchange proposes to assess fees for manual transactions based on account type. For Public Customers, the Exchange proposes to assess a $0.00 per contract fee for manual transactions in Penny and Non-Penny Pilot Classes. For Professional Customers, Broker Dealers and Market Makers, the Exchange proposes to assess a $0.25 per contract fee for manual transactions in Penny and Non-Penny Pilot classes.

The Exchange proposes to add an additional account type, Broker Dealer Facilitating a Public Customer, which will apply to any manual transaction executed using the open outcry process, where the Broker Dealer and the Public Customer both clear through the same clearing firm and the Broker Dealer clears in the customer range. The Exchange proposes to assess a $0.00 per contract fee for Broker Dealers Facilitating a Public Customer in Penny and Non-Penny Pilot Classes. For example, if a Floor Broker presents a QOO Order on the Trading Floor where the initiating side is a Public Customer and the contra side is the Broker Dealer guaranteeing the full size of the order, the Public Customer will be assessed a $0.00 per contract fee on the initiating side and the Broker Dealer will be assessed a $0.00 per contract fee for the contra-side.

The Exchange then proposes to establish a QOO Order fee cap for Broker Dealers of $75,000 per month per Broker Dealer. Again, the Exchange notes that both sides of the paired QOO Order will count towards reaching the fee cap for each Broker Dealer.

The Exchange then proposes to add Section II.B., QOO Orders Executed Against Orders on the BOX Book. Specifically, the Exchange proposes that the initiating side of a QOO Order executing against an order on the BOX Book will be treated as a manual transaction for purposes of the Fee Schedule and will be subject to the fees and rebates in proposed Section II (Manual Transaction Fees). The corresponding order on the BOX Book will be treated as an electronic transaction and continue to be subject to the fees in Section I (Electronic Transaction Fees).

The Exchange proposes to adopt Section II.C., QOO Order Rebate. BOX Floor Brokers will receive a $0.05 per contract rebate for all QOO Orders presented to the Trading Floor for both sides of the QOO Order. However, the rebate will not apply to Public Customer manual executions; or Broker Dealer manual executions where the Broker Dealer is facilitating a Public Customer. The total monthly rebate for Broker Dealer executions will be capped at $30,000 per month per Broker Dealer.

For example, Broker Dealer A submits a 200 contract buy order to a Floor Broker B, and the Floor Broker B pairs that initiating order with Broker Dealer C's 200 contract sell order to create a QOO Order that will be presented on the Trading Floor in open outcry. During open outcry, Floor Broker D offers to sell 50 contracts on behalf of Broker Dealer E. The 200 contract QOO Order is then submitted to the Exchange for execution through the BOG.

Following the allocation of the initiating side of the QOO Order:

- Broker Dealer A would be assessed a $0.25 fee and Floor Broker B would receive a $0.05 rebate on the initiating 200 contracts.
- Broker Dealer C would be assessed a $0.25 fee and Floor Broker B would receive a $0.05 rebate on its 150 contra side contracts that receive allocation.
- Broker Dealer E would be assessed a $0.25 fee and Floor Broker D would receive a $0.05 rebate on its 50 contra side contracts that received allocation.

To continue on this example, if Floor Broker D offered to sell 50 contracts on behalf of Public Customer F instead of Broker Dealer E. Public Customer F would be assessed no fees and Floor Broker D would receive no rebates on its 50 contra side contracts that received allocation. On a monthly basis, these QOO Order fees for Broker Dealer A, Broker Dealer C, and Broker Dealer E would each be capped at $75,000; and the QOO Order Rebate for Floor Brokers B and D would be capped at $30,000 per Broker Dealer.

Proposed Section IV. Complex Order Transaction Fees

The Exchange proposes to amend proposed Section IV (Complex Order Transaction Fees) to clarify that transaction fees and credits set forth in this section will not apply to (i) Complex Order Electronic transactions executed through the Auction Mechanisms[9] which will be subject to Sections I (Electronic Transaction Fees) and proposed Section III (Liquidity Fees and Credits) and (ii) Complex Order Manual Transactions which will be subject to proposed Section II (Manual Transaction Fees).

Proposed Section IX. Participant Fees

The Exchange proposes to establish distinct Participant fees for its Floor Participants. The proposed Floor Participant Permit fees will be in addition to the Participant Fees already in place; a one-time $2,500 Initiation Fee, and a monthly $1,500 Participant Fee. The Exchange proposes to establish a Floor Market Maker fee of $5,500 per month, a Floor Broker fee of $500 per month and a Badge fee of $100 per month.[10] The Exchange notes that the Floor Market Maker fee and Floor Broker fee entitles the Participant to three registered permits on the BOX Trading Floor. Further, Badge fees will be paid by each Participant (Floor Market Maker or Floor Broker) for any

[7] *See* BOX Rule 100(a)(66). Electronic transactions are those initiated electronically, as opposed to transactions initiated and presented on the Trading Floor in open outcry.

[8] *See* BOX Rule 7600. The QOO Order must be entered as a two-sided order when it is submitted to the Exchange for execution through the BOX Order Gateway (''BOG'').

[9] BOX's auction mechanisms include the Price Improvement Period (''PIP''), Complex Order Price Improvement Period (''COPIP''), Facilitation Auction and Solicitation Auction.

[10] A Floor Market Maker is an Options Participant of the Exchange located on the Trading Floor who has received permission from the Exchange to trade in options for his own account. A Floor Broker is an individual who is registered with the Exchange for the purpose, while on the Trading Floor, of accepting and handling options orders. A Floor Broker must be registered as an Options Participant prior to registering as a Floor Broker. The Exchange notes that the Floor Market Maker fee and the Floor Broker Dealer fee will be paid by the Floor Market Maker or Floor Broker Dealer entities, respectively.

registered on-floor person employed by or associated with the Participant. Lastly, the Exchange notes that the Badge fee is not imposed on permit holders. The Exchange believes these Floor Participant Fees are competitive with similar fees at other option exchanges.[11]

Finally, the Exchange proposes to make a number of non-substantive changes to the Fee Schedule. First, the Exchange proposes to renumber the footnotes throughout the Fee Schedule. Second, the Exchange proposes to amend Section III (Complex Order Transaction Fees) with regard to Market Maker executed volume on BOX. Currently, the Fee Schedule states, ''All Complex Order transactions will count toward a Market Maker's monthly executed volume on BOX in Section I.B.'' The Exchange proposes to correct the reference to Section I.A.1, as Section I.B is not accurate. Finally, the Exchange proposes to amend proposed Section III (Liquidity Fees and Credits) to clarify that a PIP Order or COPIP Order that executes against an Unrelated on the BOX Book shall be treated as a Non-Auction Transaction and deemed exempt from the Liquidity Fees and Credits in Section III.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Manual Transaction Fees

The Exchange believes the proposed fees for Manual Transactions on the Trading Floor are reasonable. Furthermore, several other competing exchanges have open outcry trading floors and market participants can readily direct order flow to any these venues if they deem BOX's manual transaction fees to be excessive.[13]

The Exchange believes the $0.25 fee for Professional Customer, Broker Dealer, and Market Maker QOO Orders is reasonable. The proposed fees for these Manual transactions have been designed to be comparable to the fees that such orders would be charged at competing venues.[14] Further, the Exchange believes that charging Professionals, Broker Dealers and Market Makers the same fee for all Manual Transactions is not unfairly discriminatory as the fees for QOO Orders are the same for Professionals, Broker Dealers and Market Makers.

The Exchange believes it is equitable and not unfairly discriminatory that Public Customers be charged lower fees for Manual transactions than Professional Customers, Broker Dealers and Market Makers on BOX. The securities markets generally, and BOX in particular, have historically aimed to improve markets for investors and develop various features within the market structure for customer benefit. As such, the Exchange believes that not assessing a fee for Public Customer Manual transactions are appropriate, equitable and not unfairly discriminatory. The Exchange believes it promotes the best interests of investors to have lower transaction costs for Public Customers, and having no fee for QOO Orders will attract Public Customer order flow to the BOX Trading Floor.

The Exchange believes that not charging a Broker Dealer facilitating a Public Customer is reasonable because it will encourage Broker Dealers to facilitate Public Customer orders through the Trading Floor and increase participation in open outcry, which will in turn promote increased executions on the Exchange which will benefit all BOX Participants. As stated above, BOX's market model and fees are generally intended to benefit retail customers by providing incentives for Participants to submit their customer order flow to BOX.[15] Further, the Exchange believes this proposal is reasonable and appropriate; as it is in line other exchanges with open outcry trading floors.[16]

In addition, the proposed change is equitable and not unfairly discriminatory because it is open to all Broker Dealers on an equal basis. Further, the BOX Trading Floor will provide the opportunity for all market participants to compete for these customer orders, as there are no limitations regarding the number of Market Makers or Floor Brokers that can participate and compete for a QOO Order in open outcry.

Finally, the Exchange believes that the proposed difference between what a Broker Dealer facilitating a Public Customer will pay, compared to what a responder to the QOO Order will pay is reasonable, equitable and not unfairly discriminatory. As stated above, this difference is in-line with the credits and fees at competing exchanges. The Exchange believes that this differential is reasonable because responders are willing to pay a higher fee for liquidity discovery. Further, the Broker Dealer is guaranteeing the execution when submitting the QOO Order to floor, compared to the other Floor Participants who have no obligation to respond.

The Exchange believes that the QOO Order fee cap for Broker Dealers is reasonable and appropriate. The proposed fee cap of $75,000 per month per Broker Dealer is the same amount as another fee cap at a competing exchange with an open outcry trading floor.[17] Further, the Exchange believes that this proposed fee cap is equitable and not unfairly discriminatory because it provides incentives for Broker Dealers to submit floor transactions on the Exchange, which brings increased liquidity and order flow to the floor for the benefit of all market participants. Lastly, the Exchange believes that applying this fee cap to only Broker Dealers is reasonable and appropriate as another exchange in the industry has a similar cap.[18] The Exchange believes

[11] For similar Trading Floor Permits for Floor Market Makers, Chicago Board Options Exchange (''CBOE'') charges $5,000; NASDAQ PHLX LLC (''PHLX'') charges $4,500; NYSE Arca (''Arca'') charges up to $6,000; and NYSE American (''American'') charges up to $10,000. For Floor Brokers, CBOE charges $9,000 per month; PHLX charges $3,000 per month; Arca charges $500 per month; and American charges $500 per month.

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See* CBOE Fee Schedule; PHLX Pricing Schedule; Arca Options Fees and Charges; and American Options Fee Schedule.

[14] For manual transactions, CBOE charges Broker Dealers $0.25 and charges Market Makers between $0.23 and $0.03, depending on their volume thresholds based on total national Market Maker volume. CBOE does not charge public customers for manual transactions. On Phlx, Broker Dealers and Professionals are charged $0.25 for floor transactions while Market Makers are charged $0.35. Similar to CBOE, Phlx does not charge public customers for their floor transactions. On Arca, Broker Dealers, Professional Customers and Market Makers are charged $0.25 for their manual executions, while public customers are not charged. Lastly, on American for manual transactions, Broker Dealers and Professional Customers are charged $0.25, Market Makers are charged $0.20, and public customers are not charged.

[15] *See* BOX Fee Schedule, current Section II.A. (Liquidity Fees and Credits for PIP and COPIP Transactions.)

[16] *See* NYSE Arca Fee Schedule. Arca does not charge fees for manual executions for Firm Facilitation and Broker Dealers facilitating a Customer. Additionally, the Exchange notes that it is proposing a similar definition for ''Broker Dealers facilitating a Customer'' as defined in Arca's Fee Schedule. *See also* NASDAQ PHLX LLC (''PHLX'') Fee Schedule. PHLX does not charge fees for a transaction in which a Broker-Dealer facilitates a Customer order.

[17] *See* Phlx Pricing Schedule. Phlx subjects Firms to a maximum fee of $75,000 per month for floor transactions.

[18] *See* American Fee Schedule Section I.I (Firm Month Fee Cap). American has a monthly Firm Fee Cap for Manual transactions of $100,000. Firms are defined as ''a Broker Dealer that is not registered as

Continued

that to attract orders from Broker Dealers, via a Floor Broker, the rates must be competitive with rates at other trading floors.

Further, the Exchange believes that applying the cap to only Broker Dealers is equitable and not unfairly discriminatory to Public Customers and Broker Dealers facilitating a Public Customer because these Participants are not charged any fees for their manual transactions. Additionally, the Exchange believes it is equitable and not unfairly discriminatory to not apply a fee cap on Floor Market Maker manual transactions. Market Makers do not need the same incentives as Broker Dealers to submit order flow to the BOX Trading Floor. Broker Dealers require a Floor Broker to represent their trading interest on the Trading Floor as compared to a Market Maker that could directly transact such orders on the Trading Floor.

QOO Order Rebate

The Exchange believes that the proposed $0.05 QOO Order Rebate for Floor Brokers is reasonable, equitable and not unfairly discriminatory. The Exchange notes that it does not offer a front-end for order entry on the Trading Floor, unlike some competing exchanges. As such, the Exchange believes it is necessary from a competitive standpoint to offer this rebate to the executing Floor Broker on a QOO order. A similar flat rebate is offered to Floor Brokers on a competing exchange.[19] Similar to the Floor Broker Rebate for Executed QCC Transactions, the proposed QOO Order rebate is applied to both sides of the paired order and is directed to the Floor Broker and not to the Participant who is assessed the QOO Order fee. In other words, the NYSE Floor Broker Rebate is applied to the Floor Broker who executes the QCC Order for another NYSE Member, even though that Member is assessed the $0.20 fee per contract. Finally, the rebate is only applied when the Floor Broker executes the QCC Order manually on the NYSE Arca trading floor. No rebate is given when the QCC Order is executed electronically.[20]

The Exchange notes that Participants have two possible means of bringing orders to the Exchange's Trading Floor for possible execution: (1) They can invest in the technology, systems and personnel to participate on the Trading Floor and deliver the order to the Exchange matching engines for validation and execution; or (2) they can utilize the services of another Participant acting as a Floor Broker. The Exchange believes that offering the rebate will allow Floor Brokers to price their services at a level that would enable them to attract QOO order flow from participants who would otherwise utilize the front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and resources to install and develop their own internal systems to deliver QOO orders directly to the Exchange system.

Further, the Exchange believes that to the extent Floor Brokers are able to attract QOO orders; they will gain important information that would allow them to solicit the parties to the QOO orders for participation in other trades. This will in turn, benefit other Exchange participants through additional liquidity on the Trading Floor that could occur as a result.

The Exchange believes it is equitable and not unfairly discriminatory to only apply the rebate to Floor Brokers and not to Floor Market Makers. As stated above, Floor Market Makers only represent their own interest on the Trading Floor and therefore do not need a similar incentive. Further, the Exchange believes it is equitable and not unfairly discriminatory to not apply the rebate to Public Customers or Broker Dealers where the Broker Dealer is facilitating a Public Customer, as these executions are not assessed a fee for their QOO Orders. The Exchange also believes that the $30,000 rebate cap for Broker Dealer executions is equitable and not unfairly discriminatory as Broker Dealer QOO Order execution fees are capped at $75,000 per month and other QOO Order fees are not.

QOO Orders Executed on the BOX Book

The Exchange believes that treating the initiating side of the QOO Order that executes against an order on the BOX Book as a manual transaction for purposes of the Fee Schedule and subject to Section II (Manual Transaction Fees), and treating the corresponding order on the BOX Book as an electronic transaction subject to Section I (Electronic Transaction Fees) is reasonable, equitable and not unfairly discriminatory. For example, the Exchange believes this proposal is reasonable and appropriate as it has adopted a similar methodology for Complex Orders that execute against orders on the BOX Book.[21] Further, the Exchange believes that this proposed change is equitable and not unfairly discriminatory as it will reduce investor confusion with respect to the applicable QOO Order fees and rebates. Further, the Exchange believes that this proposal is consistent with what a Participant submitting an order on the Trading Floor would expect to pay, which will allow the Participant to more accurately forecast their floor based transaction fees.

Complex Order Transaction Fees

The Exchange believes that the proposed changes to Proposed Section IV (Complex Order Transaction Fees) are reasonable, equitable and not unfairly discriminatory as the changes are simply clarifying how Manual Complex Orders on the Trading Floor will be charged or credited as opposed to electronic Complex Orders. The Exchange notes that the Exchange currently differentiates between Complex Orders executed on the Exchange versus Complex Orders executed within BOX's Auction Mechanisms. The Exchange is simply clarifying that Manual Complex Orders presented on the Trading Floor will be subject to a different section of the BOX Fee Schedule, specifically proposed Section II (Manual Transaction Fees).

Participant Fees

The Exchange's proposed Trading Floor Permit fees of $5,500 per month for Floor Market Makers, $500 per month for Floor Brokers and $100 per month for any Badge Fees are reasonable and appropriate. Specifically, the proposed fees are competitive with similar participant fees at other options exchanges with open outcry trading floors.[22]

The Exchange believes that it is equitable and not unfairly discriminatory to charge Floor Market Makers more per month than Floor Brokers. Floor Market Makers benefit from the access they have to interact with orders which are made available in open outcry on the Trading Floor. As

a dealer-specialist or Market Maker that is an ATP Holder on the Exchange.'' The Exchange notes that American has in place a $0.01 incremental service fee that is applied once a Firm has reached the monthly cap. The Exchange is not proposing a similar service fee at this time. *See also* Arca Fee Schedule (Firm and Broker Dealer Monthly Fee Cap).

[19] *See* NYSE Arca, Qualified Contingent Cross (''QCC'') Transactions Fees and Rebate. The Floor Broker Rebate for Executed Orders is a flat rebate and is applied to both sides of the QCC Order except when a Customer is on both sides of the QCC transaction.

[20] BOX notes that while QCC Orders are also offered on the Exchange, only QOO Orders are allowed to be presented to the BOX Trading Floor for open outcry.

[21] *See* Securities Exchange Release No. 77568 (April 8, 2016), 81 FR 22151 (April 14, 2016).

[22] *See supra* note 11.

stated above, these market participants may choose to conduct their business on the Trading Floor, unlike Floor Brokers, who have a business model that is naturally tied to the physical trading space. The Exchange offers Market Makers a choice on how to conduct business, only electronic or floor and electronic. The Exchange believes that it is equitable and not unfairly discriminatory to assess Floor Market Makers the higher monthly fee because they have the benefit of trading on both if they so choose.

Lastly, the Exchange believes the monthly Badge Fee of $100 is reasonable as it is in line with other similar fees at a competing exchange.[23] Further, the Exchange believes that the monthly Badge Fee is equitable and not unfairly discriminatory because the Badge Fee will be assessed uniformly to each person authorized by the BOX Participant, regardless of Participant type.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is limited. For the reasons discussed above, the Exchange believes that the proposed changes do not impose an undue burden on competition.

The Exchange does not believe that assessing no fee on Broker Dealers facilitating Public Customer will burden competition by creating such a disparity between the fees that an initiating Broker Dealer pays and the fees a competitive responder pays that would result in certain Participants being unable to compete with initiators. In fact, the Exchange believes that the proposed fees will not impair these Participants from adding liquidity and competing in open outcry on the Trading Floor and will help promote competition by providing incentives for market participants to submit customer order flow to the BOX Trading Floor and thus, create a greater opportunity for customer executions.

Further, the Exchange does not believe that offering a rebate to Floor Brokers will impose an undue burned [sic] on intra-market competition because all Floor Brokers are eligible to transaction [sic] QOO Orders and receive a rebate. Further, the Exchange believes that the rebate will promote competition by allowing Floor Brokers to competitively price their services and for the Exchange to remain competitive with other exchanges that offer front-end order entry on their trading floors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[24] and Rule 19b–4(f)(2) thereunder,[25] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–28 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2017–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–28, and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18798 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[23] *See* CBOE Fees Schedule and NYSE Arca Fee Schedule. CBOE charges a $120 (Floor Manager) or $60 (Clerks) badge fees for their Floor Participants. NYSE Arca charges $50 per badge.

[24] 15 U.S.C. 78s(b)(3)(A)(ii).

[25] 17 CFR 240.19b–4(f)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Commission will host the SEC–NYU Dialogue on Securities Markets—Exchange-Traded Products (ETPs) on Friday, September 8, 2017 beginning at

9:15 a.m., in the Auditorium, Room L–002.

The event is scheduled to include welcome remarks by SEC Commissioner Michael Piwowar, concluding remarks by SEC Commissioner Kara Stein and panel discussions that Commissioners may attend. The panel discussions will explore market impacts from the growth in ETPs, potential implications for investors who hold ETPs, and where the ETP market is headed. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: August 31, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–18933 Filed 9–1–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81506; File No. SR–BOX–2017–29]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Establish a Booth Space Fee for the BOX Trading Floor

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2017, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to establish a booth space fee for the BOX open-outcry Trading Floor. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to establish a booth space fee for the BOX open-outcry Trading Floor (''Trading Floor''). Specifically, the Exchange proposes to establish a Trading Floor Booth Space Fee of $1,500 per month. The Exchange also proposes to specify that current Trading Floor Permit fees for both Floor Market Makers and Floor Brokers entitle the Participant to one booth space along with the three registered permits. The Exchange expects the booth space to be used by Floor Participants to perform various functions in support of floor based trading activities on the Exchange. As such, Floor Participants who need more booth space will be required to pay an additional Trading Floor Booth Space Fee of $1,500 per month. The Trading Floor Booth Space will be used for a Floor Participant's workstation on the BOX Trading Floor. The Exchange notes that all booth spaces will be uniform, identical in size and will contain an equal number of electrical outlets and data ports.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed booth space fee is reasonable as it is in line with a similar fee charged at another exchange with a physical trading floor.[6] Further, the Exchange believes that the proposed booth space fee is equitable and not unfairly discriminatory because it applies to Trading Floor Participants uniformly. Further, the booth space fee provides for equitable allocation of reasonable fees among Floor Participants by requiring Participants that need more space to pay more, instead of raising the fees for all Participants, including those that may not need additional space. Lastly, the Exchange believes that the proposed change will further the goal in providing more space to Floor Participants that may need it without charging all Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule changes will impose any burden on intramarket competition because the proposed change applies to both Floor Market Makers and Floor Brokers. Further, the Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the change applies to fees that affect BOX only, and not other exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *See* Chicago Board Options Exchange, Incorporated (''CBOE'') Fee Schedule. CBOE charges a $1,250 per month fee for a Non-Standard Booth Rental plus $1.70 per square foot, determined based on the size of the booth. At CBOE, the term ''non-standard booth'' generally refers to space on the trading floor on the Exchange that is set off from a trading crowd, which may be rented for whatever support, office, back-office, or any other business-related activities for which CBOE members may choose to use. The Exchange notes that the ''non-standard booth'' at CBOE is similar to the proposed Trading Floor Booth discussed herein, as the booth space is a general space on the trading floor. *See* Securities Exchange Release No. 78741 (August 31, 2017), 81 FR 61727 (SR–CBOE–2016–063).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [7] and Rule 19b–4(f)(2) thereunder,[8] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2017–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2017–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–29, and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18800 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32801; 812–14802]

SL Advisors, LLC, et al.

August 30, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) index-based series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds.

APPLICANTS: SL Advisors, LLC (the ''Initial Adviser''), a New Jersey limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940, ETF Series Solutions (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Quasar Distributors, LLC (the ''Distributor''), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (''Exchange Act'').

FILING DATES: The application was filed on July 20, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: W. John McGuire, Esq., Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2541 and Michael D. Barolsky, Esq., U.S. Bancorp Fund Services, LLC, 615 E. Michigan Street, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of the Trust or a Fund, of the Adviser, of any sub-adviser to or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.[2]

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second-Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[3] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c)

[1] Applicants request that the order apply to the new series of the Trust and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term ''Fund''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.

[2] Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund's calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

[3] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18777 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81501; File No. SR–Phlx–2017–71]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Rules 431, 432, and 835 To Conform Them to Securities Exchange Act Rule 15c6–1(a), Which Shortens the Settlement Cycle to Two Dates After the Trade Date, and To Interpret the Amended Rules To Exclude September 5, 2017 as the First Ex-Dividend Date Thereunder

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend PHLX Rules 431, 432, and 825 to conform them to SEA Rule 15c6–1(a) to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'') and the industry-led initiative to shorten the settlement cycle from T+3 to T+2. The proposal also addresses the application of these Rules as they relate to establishing ex-dividend dates in connection with the implementation of the T+2 settlement cycle on September 5, 2017.

The Exchange requests that the Commission waive the five-day pre-filing requirement and the 30-day operative delay period contained in Exchange Act Rule 19b–4(f)(6)(iii).[3] While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on September 5, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

On March 22, 2017, the SEC adopted amendments to SEA Rule 15c6–1(a) to shorten the standard settlement cycle for U.S. secondary market transactions in equities, corporate and municipal bonds, unit investment trusts and financial instruments composed of these products, from T+3 to T+2.[4] The industry-wide initiative is designed to reduce a number of risks, including credit risk, market risk, and liquidity risk and, as a result, reduce systemic risk for U.S. market participants.[5] The compliance date for the rule amendments is September 5, 2017.

The Exchange [sic] proposing changes to its Rules pertaining to securities settlement to conform them to SEA Rule 15c6–1(a), as amended, and to conform them to similar changes that other exchanges have made.[6]

Specifically, the Exchange proposes to amend Rule 431 (Ex-dividend, Ex-rights), which presently provides that transactions in stocks (except for those made for cash) shall be ex-dividend or ex-rights on the second business day preceding the record date fixed by the corporation or the date of the closing of transfer books thereof. It also provides that if the record date or closing of transfer books occurs on a day other than a business day, the transaction will be ex-dividend or ex-rights on the third preceding business day. The Exchange proposes to amend this Rule to provide that: (1) The transactions shall be ex-dividend or ex-rights on the first business day preceding the record date fixed by the corporation or the date of the closing of transfer books thereof; and (2) the transaction will be ex-dividend or ex-rights on the second preceding business day if the record date or closing of transfer books occurs on a day other than a business day.

Similarly, the Exchange proposes to amend Rule 432 (Ex-warrants), which presently provides that transactions in securities which have subscription warrants attached (except those made for cash) shall be ex-warrants on the second business day preceding the date of expiration of the warrants, except that when the date of expiration occurs on a day other than a business day, the transactions will be ex-warrants on the third business day preceding the date of expiration. The proposal will amend this Rule to provide that transactions in securities which have subscription warrants attached (except those made for cash) shall be ex-warrants on the first business day preceding the date of expiration of the warrants, except that when the date of expiration occurs on a day other than a business day, the transactions will be ex-warrants on the second business day preceding the date of expiration.

Third, the Exchange proposes to amend Rule 825 (Ex-dividend Procedure), which sets forth the ex-dividend rules for transactions in securities subject to unlisted trading privileges. The Rule presently provides that transactions in stocks (except those made for cash) are ex-dividend on the second business day preceding the record date and that, if the record date selected is not a business day, then the stock will be quoted ex-dividend on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6)(iii).

[4] *See* Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017) (Securities Transaction Settlement Cycle) (File No. S7–22–16) (stating that, as amended, SEA Rule 15c6–1(a) will prohibit broker-dealers from effecting or entering into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers' acceptances or commercial bills) that provides for payment of funds and delivery of securities later than the second business day after the date of the contract, unless otherwise expressly agreed to by the parties at the time of the transaction).

[5] *See id.*

[6] *See, e.g.,* Securities Exchange Act Release No. 34–80640 (May 16, 2017), 82 FR 22598 (May 10, 2017) (Order Approving File No. SR–NASDAQ–2017–13).

third preceding business day. The proposal would amend this Rule by providing instead that that transactions in stocks (except those made for cash) are ex-dividend on the first business day preceding the record date and that, if the record date selected is not a business day, then the stock will be quoted ex-dividend on the second preceding business day.

Lastly, the Exchange proposes to implement the foregoing Rules in a manner that avoids confusion and accords with the proposals of other exchanges and self-regulatory organizations (''SROs''). Consistent with the compliance date of the amendments to SEA Rule 15c6–1(a), the industry adopted Tuesday, September 5, 2017 as the transition date to the T+2 settlement cycle.[7] In the lead-up to this transition date, however, the industry and SROs, including The Depository Trust Company (''DTC''), have raised concern that the September 5, 2017 industry-wide transition date from T+3 to T+2 will result in September 7, 2017 being a ''double'' settlement date for trades that occur on September 1, 2017 (under T+3 and reflecting the Labor Day holiday on September 4, 2017) and trades that occur on September 5, 2017 (under T+2), which generally will result in investors who trade on either date being deemed a record holder of September 7, 2017.[8] In order to avoid this confusion about the proper settlement date, the Exchange proposes to interpret its Rules so that the first record date to which the new ex-dividend date determination will be applied will be Thursday, September 7, 2017. The ex-dividend dates for ''regular'' distributions during the transition to T+2 will be as follows:

Record date	Ex-date
Friday, September 1, 2017[9].	Wednesday, August 30, 2017.
Tuesday, September 5, 2017[10].	Thursday, August 31, 2017.[11]
Wednesday, September 6, 2017.	Friday, September 1, 2017.[12]
Thursday, September 7, 2017[13].	Wednesday, September 6, 2017.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change supports the [sic] supports [sic] the industry-led initiative to shorten the settlement cycle to two business days. Moreover, the proposed rule change is consistent with the SEC's amendment to SEA Rule 15c6–1(a) to require standard settlement no later than T+2. The Exchange believes that the proposed rule change will provide the regulatory certainty to facilitate the industry-led move to a T+2 settlement cycle.

Similarly, the Exchange believes that the proposal to address the application of Rules 341 [sic], 342 [sic], and 825 to exclude September 5, 2017 as an ex-dividend date for distributions supports the collective effort among the industry and SROs to mitigate the potential confusion concerning proper settlement during the transition from the T+3 settlement cycle to the T+2 settlement cycle.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change makes changes to rules pertaining to securities settlement and is intended to facilitate the implementation of the industry-led transition to a T+2 settlement cycle. Moreover, the proposed rule changes are consistent with the SEC's amendment to SEA Rule 15c6–1(a) to require standard settlement no later than T+2.

Meanwhile, the proposal to interpret the Rules to exclude an ex-dividend date of September 5, 2017 will minimize potential confusion about proper settlement that may arise during the transition to the T+2 settlement cycle.[16] The Exchange believes that the proposal would not impose any additional costs on the industry.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative in time for the compliance date of September 5, 2017 for the T+2 settlement cycle. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest so that the proposed rule change and interpretation will be operative as the industry moves to a T+2 settlement cycle on September 5, 2017. The Commission notes that the proposed rule change would amend Exchange rules to conform to the amendment that the Commission has adopted to Rule 15c6–1(a) under the Act[21] and support a move to a T+2 standard settlement cycle. The Commission further notes that the interpretation regarding the

[7] *See* Nasdaq Equity Trader Alert 2017–174 (July 28, 2017).

[8] *See, e.g.,* Nasdaq Issuer Alert 2017–001, Changes to Ex-dividend Procedures Effective September 5, 2017 to Accommodate T+2 Settlement, *http://nasdaq.cchwallstreet.com/nasdaq/pdf/nasdaq-issalerts/2017/2017-001.pdf;* NYSE, NYSE MKT, NYSE ARCA: Changes Related to the Shortened Settlement Cycle (T+2) (July 11, 2017), *https://www.nyse.com/trader-update/history#110000069618.*

[9] The last day of the T+3 settlement cycle.

[10] The first day of the T+2 settlement cycle.

[11] Monday, September 4, 2017 is Labor Day, a Federal holiday.

[12] *See id.*

[13] The date on which previous trades settling on a T+3 settlement cycle and current trades on the T+2 settlement cycle will be processed.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] As a result of the September 5, 2017 transition date for regular-way settlement from T+3 to T+2, September 7, 2017 will be a ''double'' settlement date for trades that occur on September 1, 2017 (under T+3 and reflecting the Labor Day holiday on September 4, 2017) and trades that occur on September 5, 2017 (under T+2).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has waived this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See supra* note 4.

proper settlement date in connection with the transition to the T+2 settlement cycle on September 5, 2017 would help to avoid the confusion that could arise if ''regular'' distributions were to be ex-dividend on that date and is consistent with the rules of other self-regulatory organizations.[22] Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–71 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2017–71. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2017–71, and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18795 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[22] *See* Securities Exchange Act Release Nos. 81448 (August 21, 2017), 82 FR 40610 (August 25, 2017) (SR–FINRA–2017–026) and 81446 (August 21, 2017), 82 FR 40604 (August 25, 2017) (SR–NASDAQ–2017–084).

[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 17a–7, SEC File No. 270–238, OMB Control No. 3235–0214.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit the existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–7 (17 CFR 270.17a–7) (the ''rule'') under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Act'') is entitled ''Exemption of certain purchase or sale transactions between an investment company and certain affiliated persons thereof.'' It provides an exemption from section 17(a) of the Act for purchases and sales of securities between registered investment companies (''funds''), that are affiliated persons (''first-tier affiliates'') or affiliated persons of affiliated persons (''second-tier affiliates''), or between a fund and a first- or second-tier affiliate other than another fund, when the affiliation arises solely because of a common investment adviser, director, or officer. Rule 17a–7 requires funds to keep various records in connection with purchase or sale transactions effected in reliance on the rule. The rule requires the fund's board of directors to establish procedures reasonably designed to ensure that the rule's conditions have been satisfied. The board is also required to determine, at least on a quarterly basis, that all affiliated transactions effected during the preceding quarter in reliance on the rule were made in compliance with these established procedures. If a fund enters into a purchase or sale transaction with an affiliated person, the rule requires the fund to compile and maintain written records of the transaction.[1] The Commission's examination staff uses these records to evaluate for compliance with the rule.

While most funds do not commonly engage in transactions covered by rule 17a–7, the Commission staff estimates that nearly all funds have adopted procedures for complying with the rule.[2] Of the approximately 3,243 currently active funds, the staff estimates that virtually all have already adopted procedures for compliance with rule 17a–7. This is a one-time burden, and the staff therefore does not estimate an ongoing burden related to the policies and procedures requirement of the rule for funds.[3] The staff estimates that there are approximately 97 new funds that register each year, and that each of these funds adopts the relevant policies and procedures. The staff estimates that it takes approximately 4 hours to develop and adopt these policies and procedures. Therefore, the

[1] The written records are required to set forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, and the information or materials upon which the board of directors' determination that the transaction was in compliance with the procedures was made.

[2] Unless stated otherwise, these estimates are based on conversations with the examination and inspections staff of the Commission and fund representatives.

[3] Based on our reviews and conversations with fund representatives, we understand that funds rarely, if ever, need to make changes to these policies and procedures once adopted, and therefore we do not estimate a paperwork burden for such updates.

total annual burden related to developing and adopting these policies and procedures would be approximately 388 hours.[4]

Of the 3,243 existing funds, the staff assumes that approximately 25%, (or 811) enter into transactions affected by rule 17a–7 each year (either by the fund directly or through one of the fund's series), and that the same percentage (25%, or 24 funds) of the estimated 97 funds that newly register each year will also enter into these transactions, for a total of 835 [5] companies that are affected by the recordkeeping requirements of rule 17a–7. These funds must keep records of each of these transactions, and the board of directors must quarterly determine that all relevant transactions were made in compliance with the company's policies and procedures. The rule generally imposes a minimal burden of collecting and storing records already generated for other purposes.[6] The staff estimates that the burden related to making these records and for the board to review all transactions would be 3 hours annually for each respondent, (2 hours spent by compliance attorneys and 1 hour spent by the board of directors) [7] or 2,505 total hours each year.[8]

Based on these estimates, the staff estimates the combined total annual burden hours associated with rule 17a–7 is 2,893 hours.[9] The staff also estimates that there are approximately 835 respondents and 6,680 total responses.[10]

The estimates of burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. The collection of information required by rule 17a–7 is necessary to obtain the benefits of the rule. Responses will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: August 31, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18857 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[4] This estimate is based on the following calculations: (4 hours × 97 new funds = 388 hours).

[5] This estimate is based on the following calculation: (811 + 24 = 835).

[6] Commission staff believes that rule 17a–7 does not impose any costs associated with record preservation in addition to the costs that funds already incur to comply with the record preservation requirements of rule 31a–2 under the Act. Rule 31a–2 requires companies to preserve certain records for specified periods of time.

[7] The staff estimates that funds that rely on rule 17a–7 annually enter into an average of 8 rule 17a–7 transactions each year. The staff estimates that the compliance attorneys of the companies spend approximately 15 minutes per transaction on this recordkeeping, and the board of directors spends a total of 1 hour annually in determining that all transactions made that year were done in compliance with the company's policies and procedures.

[8] This estimate is based on the following calculation: (3 hours × 835 companies = 2,505 hours).

[9] This estimate is based on the following calculation: (388 hours + 2,505 hours = 2,893 total hours).

[10] This estimate is based on the following calculations: 835 funds that engage in rule 17a–7 transactions × 8 transactions per year = 6,680.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–81496; File No. SR–BatsEDGA–2017–22]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing of a Proposed Rule Change, as Modified by Amendment No. 1, To Harmonize the Corporate Governance Framework With That of Chicago Board Options Exchange, Incorporated and C2 Options Exchange Incorporated

August 30, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 23, 2017, Bats EDGA Exchange, Inc. (''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On August 25, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend and restate its certificate of incorporation and bylaws, as well as amend its Rules.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

EDGA submits this rule filing to the Securities and Exchange Commission (the ''Commission'') in connection with a corporate transaction (the ''Transaction'') involving, among other things, the recent acquisition of EDGA along with Bats BYX Exchange, Inc. (''Bats BYX''), Bats BZX Exchange, Inc. (''Bats BZX'') and Bats EDGX Exchange, Inc. (''Bats EDGX'' and, together with Bats BYX, Bats BZX, and Bats EDGA, the ''Bats Exchanges'') by CBOE Holdings, Inc. (''CBOE Holdings''). CBOE Holdings is also the parent of Chicago Board Options Exchange, Incorporated (''CBOE'') and C2 Options Exchange, Incorporated (''C2''). This filing proposes to amend and restate the bylaws (and amend the rules, accordingly) and the certificate of incorporation of the Exchange based on

the bylaws and certificates of incorporation of CBOE and C2.

Specifically, the Exchange proposes to replace the certificate of incorporation of Bats EDGA Exchange, Inc., (the ''current Certificate'') in its entirety with the Second Amended and Restated Certificate of Incorporation of Bats EDGA Exchange, Inc. (the ''proposed Certificate''). Additionally, the Exchange proposes to replace the Sixth Amended and Restated Bylaws of Bats EDGA Exchange, Inc. (the ''current Bylaws'') in its entirety with the Seventh Amended and Restated Bylaws of Bats EDGA Exchange, Inc. (the ''proposed Bylaws''). The Exchange believes that it is important for each of CBOE Holdings' six U.S. securities exchanges to have a consistent, uniform approach to corporate governance. Therefore, to simplify and unify the governance and corporate practices of these six exchanges, the Exchange proposes to revise the current Certificate and current Bylaws to conform them to the certificates of incorporation and bylaws of the CBOE and C2 exchanges (*i.e.,* the Third Amended and Restated Certificate of Incorporation of Chicago Board Options Exchange, Incorporated and the Fourth Amended and Restated Certificate of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Certificate'') and the Eighth Amended and Restated Bylaws of Chicago Board Options Exchange, Incorporated and the Eighth Amended and Restated Bylaws of C2 Options Exchange, Incorporated (collectively referred to herein as the ''CBOE Bylaws'')). The proposed Certificate and proposed Bylaws reflect the expectation that the Exchange will be operated with governance structures similar to those of CBOE and C2. Accordingly, the Exchange proposes to adopt corporate documents that set forth a substantially similar corporate governance framework and related processes as those contained in the CBOE Certificate and CBOE Bylaws. The Exchange believes the proposed changes to the current Certificate and current Bylaws are consistent with the requirements of the Securities Exchange Act of 1934, as amended (the ''Act'').

(a) Changes to the Certificate

In connection with the Transaction, the Exchange proposes to amend and restate the current Certificate to conform to the certificates of incorporation of CBOE and C2. The proposed Certificate is set forth in Exhibit 5B. Specifically, the Exchange proposes to make the following substantive amendments to the current Certificate.

- Adopt an introductory section.
- Amend Article Third to provide further details as to the nature of the business of the Exchange. Specifically, the proposed Certificate will further specify that the nature of the Exchange is (i) to conduct and carry on the function of an ''exchange'' within the meaning of that term in the Act and (ii) to provide a securities market place with high standards of honor and integrity among its Exchange Members and other persons holding rights to access the Exchange's facilities and to promote and maintain just and equitable principles of trade and business.
- Article Fourth of the proposed Certificate specifies that Direct Edge LLC will be the sole owner of the Common Stock and that any sale, transfer or assignment by Direct Edge LLC of any shares of Common Stock will be subject to prior approval by the SEC pursuant to a rule filing. The Exchange notes that Article IV, Section 7 of the current Bylaws similarly precludes the stockholder from transferring or assigning, in whole or in part, its ownership interest(s) in the Exchange.
- Article Fifth of the proposed Certificate is the same as Article Fifth of the CBOE Certificate. Specifically, Article Fifth, subparagraph (a) provides that the governing body of the Exchange shall be its Board. Article Fifth, subparagraph (b) provides that the Board shall consist of not less than five (5) Directors and subparagraph (c) includes language regarding the nomination of directors, which information is substantially similar as is provided in the CBOE Bylaws and the proposed Bylaws.[3] Article Fifth, subparagraph (d) of the proposed Certificate provides that in discharging his or her responsibilities as a member of the Board, each Director shall take into consideration the effect that his or her actions would have on the ability of the Exchange to carry out the Exchange's responsibilities under the Act and on the ability of the Exchange: To engage in conduct that fosters and does not interfere with the Exchange's ability to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest. In discharging his or her responsibilities as a member of the Board or as an officer or employee of the Exchange, each such Director, officer or employee shall comply with the federal securities laws and the rules and regulations thereunder and shall cooperate with the Commission, and the Exchange pursuant to its regulatory authority. The Exchange notes that similar language is included in the current Bylaws.[4]
- Article Sixth of the proposed Certificate governs the indemnification of Directors of the Board. The Exchange notes that its indemnification provision is currently contained in Article VIII of the current Bylaws. In order to conform governance documents across all CBOE Holdings' exchanges and conform indemnification practices, the Exchange is eliminating its indemnification in the bylaws and adopting the same indemnification language that is currently contained in Article Sixth of the CBOE Certificate.
- Article Seventh of the proposed Certificate is the same as Article Seventh of the CBOE Certificate and provides that the Exchange reserves the right to amend, change or repeal any provision of the certificate. It also provides that before any amendment or repeal of any provision of the certificate shall be effective, the changes must be submitted to the Board, and if such amendment or repeal must be filed with or filed with and approved by the Commission, it won't be effective until filed with or filed with and approved by the Commission.
- Article Eighth of the proposed Certificate is the same as Article Eighth of the CBOE Certificate. Proposed Article Eighth provides that a Director of the Exchange shall not be liable to the Exchange or its stockholders for monetary damages for breach of fiduciary duty as a Director, except to the extent such exemption from liability or limitation is not permitted under Delaware Corporate law.
- Article Ninth of the proposed Certificate is the same as Article Ninth of the CBOE Certificate. Specifically it provides that unless and except to the extent that the Exchange's bylaws require, election of Directors of the Exchange need not be by written ballot.
- Article Tenth of the proposed Certificate is the same as Article Tenth of the CBOE Certificate and provides that in furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board is expressly authorized to make, alter and

[3] *See* Article III of the CBOE Bylaws and proposed Bylaws.

[4] *See* Article III, Section 1(d) and Section 1(e) of the current Bylaws.

repeal the Exchange's bylaws, which is already provided for in both the current Bylaws and proposed Bylaws.[5]

• Article Eleventh of the proposed Certificate is the same as Article Eleventh of the CBOE Certificate and is similar to Article XI, Section 3 of the current Bylaws. Particularly, Article Eleventh provides that confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (i) Not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange; and (iii) not be used for any commercial purposes. Additionally, Article Eleventh of the proposed Certificate further provides that nothing in Article Eleventh shall be interpreted as to limit or impede the rights of the Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit or impede the ability of any officers, directors, employees or agents of the Exchange to disclose such confidential information to the Commission.

(b) Substantive Changes to the Bylaws

In connection with the Transaction, the Exchange also proposes to amend and restate the current Bylaws to conform to the Bylaws of CBOE and C2. The proposed Bylaws is set forth in Exhibit 5D. Specifically, the Exchange proposes to make the following substantive amendments to the current Bylaws:

Definitions

The Exchange first notes that Section 1.1 of the proposed Bylaws, titled ''Definitions,'' contains key definitions of terms used in the proposed Bylaws, and are based on the defined terms used in Section 1.1 of the CBOE Bylaws. The Exchange notes that certain differences in terminology in the proposed Bylaws and CBOE Bylaws will exist (*e.g.,* use of the term ''Exchange Member'' instead of ''Trading Permit Holder''). The Exchange proposes to eliminate from the current Bylaws certain definitions that would be obsolete under the proposed Bylaws (*e.g.,* references to ''Member Representative Directors'' and ''Member Nominating Committee'') and also proposes to move certain defined terms located in the current Bylaws to the EDGA Rules (*i.e.,* ''Industry member'' and ''Member Representative member'').[6] Additionally, the Exchange proposes to define certain terms in the current Bylaws in places other than Section 1.1, so as to match the CBOE Bylaws (*e.g.,* the definition of ''Industry Director'' is being relocated to Article III, Section 3.1 of the proposed Bylaws and the definition of ''Record Date'' is being relocated to Article II, Section 2.7 of the proposed Bylaws).[7]

Office and Agent

The Exchange notes that the information in Article II (Office and Agent) of the current Bylaws is not included in the proposed Bylaws. The Exchange notes that the language contained in Section 2 and 3 of Article II is already located in the current Certificate and will continue to be located in the proposed Certificate.[8] The Exchange does not believe the information contained in Section 1 of Article II is necessary to include in the proposed Bylaws and notes that the CBOE Bylaws do not contain information relating to the principal business office.

Nomination and Election Process

Article III of the proposed Bylaws, titled ''Board of Directors'', mirrors the language in Article III of the CBOE Bylaws and contains key provisions regarding the processes for nominating and electing Representative Directors.

General Nomination and Election

Under the Exchange's current director nomination and election process, the Nominating Committee (which is not a Board committee, but rather is composed of Exchange member representatives)[9] nominates Directors for each Director position standing for election for that year. Additionally, for Member Representative Director positions,[10] the Nominating Committee must nominate the Directors that have been approved and submitted by the Member Nominating Committee (which is also not a Board committee, but rather is composed of Member Representative members).[11] Additionally, pursuant to Article III, Section 3(b) of the current Bylaws, the Exchange Directors are divided into three classes, designated as Class I, Class II and Class III. Directors other than the Chief Executive Officer of the Exchange (''CEO'') serve staggered three-year terms. The Exchange proposes to adopt a nomination and election process identical to CBOE and C2 as set forth in Article III of the proposed Bylaws. As such, the tiered class system will be eliminated, Directors will serve one-year terms ending on the annual meeting following the meeting at which Directors were elected or at such time as their successors are elected or appointed and the newly established Nominating and Governance Committee will be responsible for nominating each Director.[12]

Nomination and Election of Representative Directors

Currently, pursuant to Article III, Section 4(b) of the current Bylaws, for Member Representative Directors, the Member Nominating Committee consults with the Nominating Committee, the Chairman of the Board and the CEO, and also solicits comments from Exchange Members for purposes of approving and submitting the names of candidates for election as a Member Representative Director. The initial nominees for Member Representative Directors must be

[5] *See* Article IX, Section 1 of the current Bylaws and Article IX, Section 9.1 of the proposed Bylaws.

[6] *See* Proposed EDGA Rules, Rule 8.6. The Exchange notes that the definition of a Member Representative member is being revised to eliminate the reference to a Stockholder Exchange Member. Currently, a Stockholder Exchange Member means an Exchange Member that also maintains, directly or indirectly, an ownership interest in the Company. The exchange notes that the sole stockholder of EDGA is Direct Edge LLC, which is a wholly owned subsidiary of CBOE Holdings and is not an Exchange member, and as such, the concept of a Stockholder Exchange Member need not be referenced.

[7] The Exchange notes a few differences between the definitions of Industry Director and Record Date in the current Bylaws and the proposed Bylaws. Specifically, the definition of ''Industry Director'' in Article I, subparagraph (o) of the current Bylaws contains references to specific percentages in order to determine whether a Director qualifies as an Industry Director, whereas the definition of ''Industry Director'' in Article III, Section 3.1, of the proposed Bylaws uses the term ''material portion'' in making those same determinations. The definition of ''Record Date'' in Article I, subparagraph (z) of the current Bylaws means a date at least thirty-five (35) days before the date of the annual meeting of stockholders, whereas Article II, Section 2.7 of the proposed Bylaws provides that the Record Date shall be at least 10 days before the date of the annual meeting of stockholders and not more than 60 days before the annual meeting.

[8] *See* Article Second of the current and proposed Certificates.

[9] *See* Current Bylaws, Article III, Section 4 (''Nomination and Election'') and Article VI, Section 2 (''Nominating Committee'').

[10] *See* Current Bylaws, Article I, (s), which defines a ''Member Representative Director''. A Member Representative Director must be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member.

[11] *See* Current Bylaws Article I, subparagraph (t) (''Member Representative member''). *See also,* Article III, Section [sic] (''Nomination and Election'') and Article VI, Section 3 (''Member Nominating Committee'') of the current Bylaws.

[12] *See* Article III, Section 3.1 and Article IV, Section 4.3 of the proposed Bylaws.

reported to the Nominating Committee and Secretary no later than sixty (60) days prior to the annual or special stockholders' meeting, at which point the Secretary will promptly notify Exchange Members. Exchange Members may then identify other candidates by delivering to the Secretary, at least thirty-five (35) days before the annual or special stockholders' meeting, a written petition, identifying the alternative candidate and signed by Executive Representatives [13] of 10% or more of Exchange Members. No Exchange Member, together with its affiliates, may account for more than fifty percent (50%) of the signatures endorsing a particular candidate. If no valid petitions from Exchange Members are received by the Record Date, the initial nominees approved and submitted by the Member Nominating Committee shall be nominated as Member Representative Directors by the Nominating Committee. If one or more valid petitions are received by the Record Date, the Secretary shall include such additional nominees, along with the initial nominees nominated by the Member Nominating Committee, on a list of nominees (the ''List of Candidates'') that is sent to all Exchange Members, accompanied by a notice regarding the time and date of an election to be held at least twenty (20) days prior to the annual or special stockholders' meeting. Each Exchange Member has the right to cast one (1) vote for each available Member Representative Director nomination (the vote must be cast for a person on the List of Candidates and no Exchange Member, together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate). The persons on the List of Candidates who receive the most votes shall be selected as the nominees for the Member Representative Director positions.

For purposes of harmonizing the governance structure and process across all of CBOE Holdings' U.S. securities exchanges, the Exchange proposes to eliminate the Nominating Committee and Member Nominating Committee and adopt a nomination and election process substantially similar to CBOE and C2 for Member Representative Directors (to be renamed ''Representative Directors'').[14] The Exchange notes that unlike the current Bylaws, the proposed Bylaws will not require Representative Directors to be an officer, director, employee, or agent of an Exchange Member that is not a Stockholder Exchange Member, as neither CBOE nor C2 maintain such a requirement. The new process will provide that the ''Representative Director Nominating Body'' shall be responsible for nominating Representative Directors. The Representative Director Nominating Body (''Nominating Body'') is either (i) the Industry-Director Subcommittee of the Nominating and Governance Committee if there are at least two (2) Industry Directors on the Nominating and Governance Committee, or (ii) if the Nominating and Governance Committee has less than two (2) Industry Directors, then the Nominating Body shall mean the Exchange Member Subcommittee of the Advisory Board.[15] The Nominating and Governance Committee shall be bound to accept and nominate the Representative Director nominees recommended by the Nominating Body or, in the event of a petition candidate, the Representative Director nominees who receive the most votes pursuant to a Run-off Election. Any person nominated by the Nominating Body and any petition candidate must satisfy the compositional requirements determined by the Board, pursuant to a resolution adopted by the Board, designating the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any). Not earlier than December 1 and not later than January 15th (or the first business day thereafter if January 15th is not a business day), the Nominating Body shall issue a circular to Exchange Members identifying the Representative Director nominees. As is the case under the current Bylaws, Exchange Members may nominate alternative candidates for election to the Representative Director positions to be elected in a given year by submitting a petition signed by individuals representing not less than ten percent (10%) of the Exchange Members at that time. Petitions must be filed with the Secretary no later than 5:00 p.m. (Chicago time) on the 10th business day following the issuance of the circular to the Exchange Members identifying the Representative Director nominees (the ''Petition Deadline''). The names of all Representative Director nominees recommended by the Nominating Body and those selected pursuant to a valid and timely petition shall, immediately following their selection, be given to the Secretary who shall promptly issue a circular to all of the Exchange Members identifying all such Representative Director candidates.

If one or more valid petitions are received, the Secretary shall issue a circular to all of the Exchange Members identifying those individuals nominated for Representative Director by the Nominating Body and those individuals nominated for Representative Director through the petition process, as well as of the time and date of a run-off election to determine which individuals will be nominated as Representative Director(s) by the Nominating and Governance Committee (the ''Run-off Election''). The Run-off Election will be held not more than forty-five (45) days after the Petition Deadline. In any Run-off Election, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year; provided, however, that no Exchange Member, either alone or together with its affiliates, may account for more than twenty percent (20%) of the votes cast for a candidate.[16] The Secretary shall issue a circular to all of the Exchange Members setting forth the results of the Run-off Election. The number of individual Representative Director nominees equal to the number of Representative Director positions to be filled that year receiving the largest number of votes in the Run-off Election will be the persons approved by the Exchange Members to be nominated as the Representative Director(s) by the Nominating and Governance Committee for that year. The Exchange believes that, under the proposed Board

[13] The term ''Executive Representative'' as defined in the current Bylaws, Article I, means the person identified to the Company by an Exchange Member as the individual authorized to represent, vote, and act on behalf of the Exchange Member. An Executive Representative of an Exchange Member or a substitute shall be a member of senior management of the Exchange Member.

[14] Article III, Section 3.1. of the proposed Bylaws requires that at all times, at least 20% of Directors serving on the Board shall be Representative Directors, which is the same percentage required under the current Bylaws (*see* Article III, Section 2(b)(ii) of the current Bylaws). Article III, Section 3.2 of the proposed Bylaws further clarifies that if 20% of the Directors then serving on the Board is not a whole number, the number of required Representative Directors shall be rounded up to the next whole number.

[15] The Exchange notes that if there are less than two (2) Industry Directors on the Nominating and Governance Committee, it would institute an Advisory Board, if not already established.

[16] Article III, Section 3.2 of the CBOE Bylaws provides that in any Run-off Election, a holder of a Trading Permit shall have one vote with respect to each Trading Permit held by such Trading Permit Holder for each Representative Director position to be filled. The Exchange notes that because no ''Trading Permits'' or similar concept exist on the Exchange, it is deviating from this practice and providing instead that each Exchange Member shall have one (1) vote for each Representative Director position to be filled, which the Exchange does not believe is a significant change. The Exchange also notes that other Exchanges have similar practices. *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

structure, the Representative Directors serve the same function as the Member Representative Directors in that both directorships give Exchange members a voice in the Exchange's use of self-regulatory authority.

Vacancies

Article III, Section 6 of the current Bylaws provides that during a vacancy of any Director other than a Member Representative Director, the Nominating Committee shall nominate an individual Director and the stockholders of EDGA shall elect the new Director.[17] In the event of a vacancy of a Member Representative Director, the Member Nominating Committee shall either (i) recommend an individual to the stockholders to be elected to fill such vacancy or (ii) provide a list of recommended individuals to the stockholders from which the stockholders shall elect the individual to fill such vacancy. The current Bylaws provide that Directors elected to fill a vacancy are to hold office until the expiration of the remaining term.

The Exchange proposes to adopt the same process to fill vacancies as CBOE and C2. Specifically, Article III, Section 3.5 of the proposed Bylaws, which is substantially similar to Article III, Section 3.5 of the CBOE Bylaws, will provide that a vacancy on the Board may be filled by a vote of majority of the Directors then in office, or by the sole remaining Director, so long as the elected Director qualifies for the position. Additionally, for vacancies of Representative Directors, the Nominating Body will recommend an individual to be elected, or provide a list of recommended individuals, and the position shall be filled by the vote of a majority of the Directors then in office. Under the proposed Bylaws, Directors elected to fill a vacancy will serve until the next annual meeting of stockholders.

Removals and Resignation

Article III, Section 7 of the current Bylaws provides that any Director may be removed with or without cause by a majority vote of stockholders and may be removed by the Board, provided however, that any Member Representative Director may only be removed for cause, which includes such Director being subject to a Statutory Disqualification. Additionally, a Director shall be immediately removed upon a determination by the Board, by a majority vote of remaining Directors that (a) the Director no longer satisfies the classification for which the Director was elected and (b) the Director's continued service would violate the compositional requirements of the Board. Article III, Section 7 of the current Bylaws also provides that any Director may resign at any time upon notice of resignation to the Chairman of the Board, the President or Secretary. Resignation shall take effect at the time specified, or if no time is specified, upon receipt of the notice.

Under Article III, Section 3.4 of the proposed Bylaws, which is the same as Article III, Section 3.4, of the CBOE Bylaws, a Director who fails to maintain the applicable Industry or Non-Industry qualifications required under the proposed Bylaws, of which the Board shall be the sole judge, will cease being a Director. The Exchange notes that while the current Bylaws do not address the requalification of a Director, Section 3.4 of the proposed Bylaws permits a Director that fails to maintain the applicable qualifications to requalify within the later of forty-five (45) days from the date when the Board determines the Director is unqualified or until the next regular Board meeting following the date when the Board makes such determination. The Director shall be deemed not to hold office (*i.e.,* the Director's seat is considered vacant) following the date when the Board determines the Director is unqualified. Further, the Board shall be the sole judge of whether the Director has requalified. If a Director is determined to have requalified, the Board, in its sole discretion, may fill an existing vacancy in the Board or may increase the size of the Board, as necessary, to appoint such Director to the Board; provided, however, that the Board shall be under no obligation to return such Director to the Board. Similar to the current Bylaws, Section 3.4 of the proposed Bylaws provides that Representative Directors may only be removed for cause. In addition to specifying that cause includes being subject to a Statutory Disqualification, the proposed Bylaws further lists additional examples of cause in Section 3.4 (*e.g.,* breach of a Representative Director's duty of loyalty to the Exchange or its stockholders and transactions from which a Representative Director derived an improper personal benefit). Lastly, the Exchange notes that under the proposed Bylaws, resignation must be written and must be given to either the Chairman of the Board or the Secretary.

Board Composition

Pursuant to Article III, Section 2 of the current Bylaws, the Board must consist of four (4) or more Directors, and consist at all times of one (1) Director who is the CEO and a sufficient number of Industry, Non-Industry and Member Representative Directors to ensure that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors. Additionally, the number of Member Representative Directors must be at least twenty (20) percent of the Board. The Exchange proposes to replace the Board composition and structure with that of CBOE and C2. As is the case with CBOE and C2, pursuant to Article III, Section 3.1, of the proposed Bylaws, the Board must consist of at least five (5) directors (which is the minimum number of Directors required for the Nominating and Governance Committee), instead of 4 as required by the current Bylaws. Additionally, the following would apply to the new Board structure:

- The number of Non-Industry Directors, Industry Directors and the number of Representative Directors that are Non-Industry Directors and Industry Directors (if any) will be determined by the Board pursuant to resolution adopted by the Board.[18]
- The proposed Bylaws provide that the number of Non-Industry Directors cannot be less than the number of Industry Directors, whereas the current Bylaws, as noted above, provide that the number of Non-Industry Directors, including at least on Independent Director, shall equal or exceed the sum of Industry and Member Representative Directors.[19] Unlike the current Bylaws, the proposed Bylaws provide that the CEO is excluded from the calculation of Industry Directors, as is the practice under CBOE Bylaws.[20] Additionally, the Exchange notes that the CBOE Bylaws do not contain the term or concept of ''Independent Directors'' and in order to conform the proposed Bylaws to the CBOE Bylaws, the proposed Bylaws also do not reference ''Independent Directors'' with respect to composition.
- The Board or the Nominating and Governance Committee will make all materiality determinations regarding who qualifies as an Industry Director and Non-Industry Director.[21]
- Unlike the current Bylaws which provide that the CEO shall be the Chairman of the Board,[22] the proposed Bylaws, provide that the Chairman will be appointed by the Board and further

[17] The sole stockholder of EDGA is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings.

[18] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.1.

[19] *See* Current Bylaws, Article III, Section 2.

[20] *Id.*

[21] *Id.*

[22] *See* Current Bylaws, Article III, Section 5.

provides that the Board may designate an Acting Chairman in the event the Chairman is absent or fails to act.[23]

• Unlike the current Bylaws which provide that a Lead Director must be designated by the Board among the Board's Independent Directors,[24] the proposed Bylaws provide that the Board may, but does not have to, appoint a Lead Director, who if appointed, must be a Non-Industry Director, which is the same practice under CBOE's Bylaws.[25]

• The number of Representative Directors must be at least twenty (20) percent of the Board,[26] which is the same requirement under the current Bylaws as noted above.

Meetings

Annual Meeting of the Stockholders

Article IV, Section 1 of the current Bylaws provides that the annual meeting of the stockholders shall be held at such place and time as determined by the Board. The Exchange notes that Article II, Section 2.2 of the proposed Bylaws is being amended to conform to Article II, Section 2.2 of the CBOE Bylaws, which provides as a default that if required by applicable law, an annual meeting of stockholders shall be held on the third Tuesday in May of each year or such other date as may be fixed by the Board, at such time as may be designated by the Secretary prior to the giving of notice of the meeting. Section 2.2 of the proposed Bylaws also provides that in no event shall the annual meeting be held prior to the completion of the process for the nomination of Representative Directors. The proposed Bylaws also provide in Article II, Section 2.1 that in addition to the Board, the Chairman (or CEO if there is no Chairman) may designate the location of the annual meeting. The Exchange notes that it is not including the information contained in Article IV, Section 3 of the current Bylaws. Specifically, Section 3 provides that the Secretary of the Exchange (or designee), shall prepare at least ten (10) days before every meeting of stockholders, a complete list of stockholder entitled to vote at the meeting. The Exchange does not believe this provision is necessary given that EDGA's sole stockholder is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings (and also notes that neither CBOE nor C2 follow this practice).

Special Meetings of the Stockholders

Article IV, Section 2 of the current Bylaws provides that special meetings of the stockholders may be called by the Chairman, the Board or the President, and shall be called by the Secretary at the request in writing of stockholders owning not less than a majority of the then issued and outstanding capital stock of the Exchange entitled to vote. In order to streamline the rules under which special meetings can be called, the Exchange proposes to adopt the same special meeting provision as Article II, Section 2.3 of the CBOE Bylaws. Particularly, under Article II, Section 2.3 of the proposed Bylaws, special meetings of stockholders may only be called by the Chairman or by a majority of the Board. The CBOE Bylaws do not include the ability of stockholders to request a special meeting. The Exchange does not believe this provision is necessary given that EDGA's sole stockholder is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings.

Quorum and Vote Required for Action at a Stockholder Meeting

Article IV, Section 4 of the current Bylaws provides, among other things, that the holders of a majority of the capital stock issued and outstanding and entitled to vote, present in person or represented by proxy, shall constitute a quorum at all meetings of the stockholders. The provision also provides that if there is no quorum at any meeting of the stockholders, the stockholders, present in person or represented by proxy, shall have power to adjourn the meeting until a quorum is present or represented. Additionally, if an adjournment of a meeting of the stockholders is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. Additionally, Article IV, Section 4 provides that when a quorum is present at any meeting, the vote of the holders of a majority of the capital stock having voting power present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by express provision of statute or of the Certificate of Incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such question.

The Exchange proposes to adopt Article II, Sections 2.5 and 2.6 of the proposed Bylaws which are the same as Article II, Sections 2.5 and 2.6 of the CBOE Bylaws and similar to Article IV, Section 4 of the current Bylaws. The Exchange notes that unlike the current Bylaws, Article II, Section 2.5 of the proposed Bylaws and CBOE Bylaws do not require notice of an adjourned meeting to be given to each stockholder of record entitled to vote at the meeting if an adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting. The Exchange does not believe this requirement is necessary given that EDGA's sole stockholder is Direct Edge LLC, a wholly owned subsidiary of CBOE Holdings. Additionally, in order to conform Article II, Section 2.6 of the proposed Bylaws to the CBOE Bylaws, the Exchange also proposes to explicitly provide that a plurality of votes properly cast shall elect the directors, notwithstanding the language in Article II, 2.6 that provides that when a quorum is present, a majority of the votes properly cast will decide any question brought before a meeting unless a different vote is required by express provision of statute or the Certificate of Incorporation.

Regular Meetings of the Board

Article III, Sections 8 and 9 of the current Bylaws provide that, with or without notice, a resolution adopted by the Board determines the time and place of the regular meeting and that if no designation as to place is made, then the meeting will be held at the principal business office of the Exchange. Article III, Section 3.10 of the proposed Bylaws, which is the same as Article III, Section 3.10 of the CBOE Bylaws, provides that regular meetings shall be held at such time and place as is determined by the Chairman with notice provided to the full Board.

Special Meetings of the Board

Article III, Section 10 of the current Bylaws provides that special meetings of the Board may be called on a minimum of two (2) days' notice to each Director by the Chairman or the President and shall be called by the Secretary upon written request of three (3) Directors. Article III, Section 3.11 of the proposed Bylaws, which is the same as Article III, Section 3.11 of the CBOE Bylaws, however, provides that special meetings of the Board may be called by the Chairman and shall be called by the Secretary upon written request of any four (4) directors. Additionally, under the proposed Bylaws, the Secretary shall give at least twenty-four (24) hours' notice of such meeting.

[23] *See* Proposed Bylaws and CBOE Bylaws, Article III, Sections 3.6 and 3.8.

[24] *See* Current Bylaws, Article III, Section 5.

[25] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.7.

[26] *See* Proposed Bylaws and CBOE Bylaws, Article III, Section 3.2.

Board Quorum

Article III, Section 12 of the current Bylaws provides that a majority of the number of Directors then in office shall constitute a quorum, whereas Article III, Section 3.9 of the proposed Bylaws, which is the same as Article III, Section 3.9 of the CBOE Bylaws, provides that two-thirds of the Directors then in office shall constitute a quorum. Increasing the quorum requirement from a majority to two-thirds will ensure that more Directors are present at meetings of the Board in order to transact business for the Exchange.

Committees of the Board

The current bylaws provide for the following standing committees of the Board: A Compensation Committee, an Audit Committee, a Regulatory Oversight Committee, and an Appeals Committee, each to be comprised of at least three (3) members.[27] The current Bylaws also provide that the Exchange may establish an Executive Committee and a Finance Committee.[28] The Exchange proposes to modify the committees of the Board to eliminate the Audit Committee, Appeals Committee, and Compensation Committee, as well as eliminate the provision relating to a Finance Committee. Additionally, the Exchange proposes to require a mandatory Executive Committee and Nominating and Governance Committee, as well as make several amendments to the Regulatory Oversight Committee provision. The Exchange notes that CBOE and C2 have eliminated their Audit and Compensation Committees and do not maintain an Appeals Committee at the Board level. As previously noted, CBOE and C2 do maintain a Board-level Nominating and Governance Committee, which performs the functions of EDGA's current Nominating and Member Nominating Committees, which the Exchange proposes to eliminate.

Elimination of Compensation Committee

The Exchange seeks to eliminate the Compensation Committee because it believes that the Compensation Committee's functions are duplicative of the functions of the Compensation Committee of its parent company, CBOE Holdings. Specifically, under its committee charter, the CBOE Holdings Compensation Committee has authority to assist the CBOE Holdings Board of Directors in carrying out its overall responsibilities relating to executive compensation and also, among other things, (i) recommending the compensation of the CBOE Holdings' CEO and certain other executive officers and (ii) approving and administering all cash and equity-based incentive compensation plans of CBOE Holdings that affect employees of the CBOE Holdings and its subsidiaries. Similarly, under its committee charter, the EDGA Compensation Committee has authority to fix the compensation of EDGA's CEO and to consider and recommend compensation policies, programs, and practices to the EDGA CEO in connection with the EDGA CEO's fixing of the salaries of other officers and agents of the Exchange.[29] As such, other than to the extent that the EDGA Compensation Committee recommends the compensation of executive officers whose compensation is not already determined by the CBOE Holdings Compensation Committee, its activities are duplicative of the activities of the CBOE Holdings Compensation Committee. Indeed, the Exchange notes that currently the EDGA Compensation Committee only fixes the compensation amount of the EDGA CEO. The Exchange notes that currently the Exchange's CEO is the CEO (*i.e.,* an executive officer) of CBOE Holdings, and as such, the CBOE Holdings Compensation Committee already performs this function. To the extent that compensation need be determined for any EDGA officer who is not also a CBOE Holdings officer in the future, the Board or senior management will perform such action without the use of a compensation committee, as provided for in Article V, Section 5.11 of the proposed Bylaws (which is identical to Article V, Section 5.11 of the CBOE Bylaws). Thus, the responsibilities of the EDGA Compensation Committee are duplicated by the responsibilities of the CBOE Holdings Compensation Committee. The Exchange believes that its proposal to eliminate its Compensation Committee is substantially similar to prior actions taken by other securities exchanges with parent company compensation committees to eliminate their exchange-level compensation committees, including CBOE and C2.[30]

Elimination of Audit Committee

The Exchange also proposes to eliminate its Audit Committee because its functions are duplicative of the functions of the Audit Committee of its parent company, CBOE Holdings. Under its committee charter, the CBOE Holdings Audit Committee has broad authority to assist the CBOE Holdings Board in fulfilling its oversight responsibilities in assessing controls that mitigate the regulatory and operational risks associated with operating the Exchange and assist the CBOE Holdings Board of Directors in discharging its responsibilities relating to, among other things, (i) the qualifications, engagement, and oversight of CBOE Holdings' independent auditor, (ii) CBOE Holdings' financial statements and disclosure matters, (iii) CBOE Holdings' internal audit function and internal controls, and (iv) CBOE Holdings' oversight and risk management, including compliance with legal and regulatory requirements. Because CBOE Holdings' financial statements are prepared on a consolidated basis that includes the financial results of CBOE Holdings' subsidiaries, including EDGA, the CBOE Holdings Audit Committee's purview necessarily includes EDGA. The Exchange notes that unconsolidated financial statements of the Exchange will still be prepared for each fiscal year in accordance with the requirements set forth in its application for registration as a national securities exchange. The CBOE Holdings Audit Committee is composed of at least three (3) CBOE Holdings directors, all of whom must be independent within the meaning given to that term in the CBOE Holdings Bylaws and Corporate Governance Guidelines and Rule 10A–3 under the Act.[31] All CBOE Holdings Audit Committee members must be financially literate (or become financially literate within a reasonable period of time after appointment to the Committee), and at least one (1) member of the Committee must be an ''audit committee financial expert'' as defined by the Securities and Exchange Commission (''SEC''). By contrast, the EDGA Audit Committee has a more limited role, focused on EDGA. Under its charter, the primary functions of the EDGA Audit Committee are focused on (i) EDGA's financial

[27] *See* Current Bylaws, Article V, Section 1 and Section 2(a).

[28] *See* Current Bylaws, Article V, Sections 6(e) and (f), respectively.

[29] The Exchange notes that the Regulatory Oversight Committee (''ROC'') of the EDGA Board recommends to the Board compensation for the Chief Regulatory Officer. The Exchange also notes that currently not all executive officers of EDGA are required to have their compensation determined by the Compensation Committee.

[30] *See e.g.,* Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017) and Securities Exchange Act Release No. 80522 (April 25, 2017), 82 FR 20409 (May 1, 2017) (SR–C2–2017–009). *See also* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042) and Securities Exchange Act Release No. 62304 (June 16, 2010), 75 FR 36136 (June 24, 2010) (SR–NYSEArca–2010–31).

[31] 17 CFR 240.10A–3.

statements and disclosure matters and (ii) EDGA's oversight and risk management, including compliance with legal and regulatory requirements, in each case, only to the extent required in connection with EDGA's discharge of its obligations as a self-regulatory organization. However, to the extent that the EDGA Audit Committee reviews financial statements and disclosure matters, its activities are duplicative of the activities of the CBOE Holdings Audit Committee, which is also charged with review of financial statements and disclosure matters. Similarly, the CBOE Holdings Audit Committee has general responsibility for oversight and risk management, including compliance with legal and regulatory requirements, for CBOE Holdings and all of its subsidiaries, including EDGA. Thus, the responsibilities of the EDGA Audit Committee are fully duplicated by the responsibilities of the CBOE Holdings Audit Committee. The Exchange believes that its proposal to eliminate its Audit Committee is substantially similar to prior actions by other securities exchanges with parent company audit committees to eliminate their exchange-level audit committees, including CBOE and C2.[32]

Elimination of Appeals Committee

The Exchange next proposes to eliminate the Appeals Committee. Pursuant to Article V, Section 6(d) of the current Bylaws, the Chairman, with the approval of the Board, shall appoint an Appeals Committee. The Appeals Committee shall consist of one (1) Independent Director, one (1) Industry Director, and one (1) Member Representative Director and presides over all appeals related to disciplinary and adverse action determinations in accordance with the Rules. The Exchange notes that neither CBOE nor C2 maintain a Board-level Appeals Committee. Rather, CBOE and C2 currently maintain an Exchange-level Appeals Committee.[33] The Exchange notes that although it is proposing to eliminate the Appeals Committee as a specified Board-level committee at this time, the Exchange will still have the ability to appoint either a Board-level or exchange-level Appeals Committee pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws. Although, CBOE and C2 have a standing exchange-level Appeals Committee, the Exchange prefers not to have to maintain and staff a standing Appeals Committee, but rather provide its Board the flexibility to determine whether to establish a Board-level or exchange-level Appeals Committee, as needed or desired. The Exchange also notes that other Exchanges similarly do not require standing Appeals Committees.[34] The elimination of the requirement in the bylaws to maintain a standing Appeals Committee would provide consistency among the Bylaws for all of CBOE Holdings' U.S. securities exchanges, while still providing the Board the authority to appoint an Appeals Committee in the future as needed.

Elimination of Finance Committee

Pursuant to Article V, Section 6(f) of the current Bylaws, the Chairman, with the approval of the Board, may appoint a Finance Committee. The Finance Committee shall advise the Board with respect to the oversight of the financial operations and conditions of the Exchange, including recommendations for the Exchange's annual operating and capital budgets. The Exchange notes that it does not currently have a Finance Committee and that, similarly, CBOE and C2 do not have an exchange-level Finance Committee. As the Exchange currently does not maintain, and has no current intention of establishing, an exchange-level Finance Committee, it does not believe it is necessary to maintain this provision. The Exchange notes that should it desire to establish a Finance Committee in the future, it still maintains the authority to do so under Article IV, Section 4.1 of the proposed Bylaws.

Changes to the Regulatory Oversight Committee

Article V, Section 6(c) of the current Bylaws relates to the Regulatory Oversight Committee (''ROC''), which oversees the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities. The Exchange proposes to adopt Article IV, Section 4.4, which amends the ROC provision to conform to Article IV, Section 4.4 of the CBOE Bylaws.[35] First, the Exchange proposes to specify that the ROC shall consist of at least three (3) directors, all of whom are Non-Industry Directors who are appointed by the Board on the recommendation of the Non-Industry Directors serving on the Nominating and Governance Committee (including the designation of the Chairman of the ROC). While the current Bylaws also require all ROC members to be Non-Industry Directors, it does not specify a minimum number of directors. The current Bylaws also provide that the Chairman of the Board (instead of a Nominating and Governance Committee), with approval of the Board, appoints the ROC members.

Next, while the current Bylaws explicitly delineate some of the ROC's responsibilities, the Exchange proposes to provide more broadly that the ROC shall have the duties and may exercise such authority as may be prescribed by resolution of the Board, the Bylaws or the Rules of the Exchange. Particularly, Article V, Section 6(c) of the current Bylaws provide that the ROC shall oversee the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities, assess the Exchange's regulatory performance, assist the Board and Board committees in reviewing the regulatory plan and the overall effectiveness of Exchange's regulatory functions and, in consultation with the CEO, establish the goals, assess the performance, and fix the compensation of the Chief Regulatory Officer (''CRO''). The Exchange notes that the ROC will continue to have the foregoing duties and authority, with the exception that the ROC will no longer consult the CEO with respect to establishing the goals, assessing the performance and fixing compensation of the CRO. The proposed change to eliminate the CEO's involvement in establishing the goals, assessing the performance and fixing compensation of the CRO is consistent with the Exchange's desire to maintain the independence of the regulatory functions of the Exchange. The Exchange notes that each of the abovementioned proposed changes provide for the same language and appointment process used by CBOE and C2 with respect to the ROC, which provides consistency among the CBOE Holdings U.S. securities exchanges.[36]

Creation of a Mandatory Executive Committee

Article V, Section 6(e) of the current Bylaws provides that the Chairman, with approval of the Board, may appoint an Executive Committee, which shall, to

[32] *See, e.g.,* Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010) and Securities Exchange Act Release No. 64128 (March 25, 2011), 76 FR 17973 (March 31, 2011) (SR–C2–2011–003). *See also,* Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR–NASDAQ–2009–042).

[33] *See e.g.,* CBOE Rule 2.1 and C2 Chapter 19, which incorporates by reference CBOE Chapter XIX (Hearings and Review), which references the Appeals Committee.

[34] For example, neither the Bylaws nor Rules of BOX Options Exchange, LLC mandate an Appeals Committee. *See* Bylaws of Box Options Exchange LLC and Rules of Box Options Exchange, LLC.

[35] The Exchange does not intend at this time to rename the ROC the ''Regulatory Oversight and Compliance Committee'' (''ROCC''), which is the name of the equivalent committee of CBOE and C2.

[36] *See* CBOE Bylaws Article IV, Section 4.4.

the fullest extent permitted by Delaware and other applicable law, have and be permitted to exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange between meetings of the Board.[37] The current Bylaws provide that the number of Non-Industry Directors on the Executive Committee shall equal or exceed the number of Industry Directors on the Executive Committee. In addition, the percentage of Independent Directors on the Executive Committee shall be at least as great as the percentage of Independent Directors on the whole Board, and the percentage of Member Representative Directors on the Executive Committee shall be at least as great as the percentage of Member Representative Directors on the whole Board.

Under the proposed Bylaws, the Exchange proposes to require that the Exchange maintain an Executive Committee and delineates its composition and functions in Article IV, Section 4.2 of the proposed Bylaws. Similar to the current Bylaw provisions relating to the Executive Committee, the proposed Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange. Unlike the current Executive Committee provisions, however, the proposed Executive Committee shall not have the power and authority of the Board to (i) approve or adopt or recommend to the stockholders any action or matter (other than the election or removal of Directors) expressly required by Delaware law to be submitted to stockholders for approval, including without limitation, amending the certificate of incorporation, adopting an agreement of merger or consolidation, approving a sale, lease or exchange of all or substantially all of the Exchange's property and assets, or approval of a dissolution of the Exchange or revocation of a dissolution, or (ii) adopt, alter, amend or repeal any bylaw of the Exchange. Additionally, Section 4.2 of the proposed Bylaws provides that the Executive Committee shall consist of the Chairman, the CEO (if a Director), the Lead Director, if any, at least one (1) Representative Director and such other number of Directors that the Board deems appropriate, provided that in no event shall the number of Non-Industry Directors constitute less than the number of Industry Directors serving on the Executive Committee (excluding the CEO from the calculation of Industry Directors for this purpose). The Directors (other than the Chairman, CEO and Lead Director, if any) serving on the Executive Committee shall be appointed by the Board on the recommendation of the Nominating and Governance Committee of the Board. Directors serving on the Executive Committee may be removed by the Board in accordance with the bylaws. The Chairman of the Board shall be the Chairman of the Executive Committee. Each member of the Executive Committee shall be a voting member and shall serve for a term of one (1) year expiring at the first regular meeting of Directors following the annual meeting of stockholders each year or until their successors are appointed. The Exchange notes that CBOE and C2 have an Executive Committee and that the proposed composition requirements and functions are the same as CBOE and C2.[38]

Elimination of Nominating and Member Nominating Committees and Creation of Nominating and Governance Committee

The Exchange also proposes to eliminate the current Nominating and Member Nominating Committees, and to prescribe that their duties be performed by the new Nominating and Governance Committee of the Board (as discussed below). The Nominating Committee is a non-Board committee and is elected on an annual basis by vote of the Exchange's sole stockholder, Direct Edge LLC [39] The Nominating Committee is primarily charged with nominating candidates for election to the Board at the annual stockholder meeting and all other vacant or new Director positions on the Board and ensuring, in making such nominations, that candidates meet the compositional requirements set forth in the bylaws. The Member Nominating Committee is also a non-Board committee and elected on an annual basis by vote of the Exchange's sole stockholder, Direct Edge LLC. [40] Each Member Nominating Committee member must be a Member Representative member (*i.e.,* an officer, director, employee or agent of an Exchange Member that is not a Stockholder Exchange Member).[41] The Member Nominating Committee is primarily charged with nominating candidates for each Member Representative Director position on the Board.

The Exchange proposes to adopt a Nominating and Governance Committee which would have the same responsibilities currently delegated to the CBOE and C2 Nominating and Governance Committees. Specifically, the Exchange proposes to adopt Article IV, Section 4.3, which is the same as Article IV, Section 4.3 of the CBOE Bylaws, which would provide that the Nominating and Governance Committee shall consist of at least five (5) directors and shall at all times have a majority of Non-Industry Directors. Members of the committee would be recommended by the Nominating and Governance Committee for approval by the Board and shall not be subject to removal except by the Board. The Chairman of the Nominating and Governance Committee shall be recommended by the Nominating and Governance Committee for approval by the Board. The Nominating and Governance Committee would be primarily charged with the authority to nominate individuals for election as Directors of the Exchange. The Nominating and Governance Committee would also have such other duties and may exercise such other authority as may be prescribed by resolution of the Board and the Nominating and Governance Committee charter as adopted by resolution of the Board. If the Nominating and Governance Committee has two (2) or more Industry Directors, there shall be an Industry-Director Subcommittee consisting of all of the Industry Directors then serving on the Nominating and Governance Committee, which shall act as the Representative Director Nominating Body (as previously discussed) if and to the extent required by the proposed Bylaws. The Exchange believes that the duties and functions of the eliminated Nominating and Member Nominating Committees would continue to be performed and covered in the new corporate governance structure under the proposed Bylaws.

Creation of an Advisory Board

The Exchange proposes to adopt Article VI, Section 6.1, which provides that the Board may establish an Advisory Board which shall advise the Board and management regarding matters of interest to Exchange Members. The Exchange believes the Advisory Board could provide a vehicle for Exchange management to receive advice from the perspective of Exchange Members and regarding matters that impact Exchange Members. Under

[37] The Exchange does not presently have an Executive Committee.

[38] *See* CBOE Bylaws, Article IV, Section 4.2.

[39] *See* Article VI, Sections 1 and 2. A Nominating Committee member may simultaneously serve on the Nominating Committee and the Board, unless the Nominating Committee is nominating Director candidates for the Director's class. The number of Non-Industry members on the Nominating Committee shall equal or exceed the number of Industry members on the Nominating Committee.

[40] *See* Article VI, Sections 1 and 3.

[41] *See* Article VI, Section 3.

Article VI, Section 6.1 of the proposed Bylaws, the Board would determine the number of members of an Advisory Board, if established, including at least two members who are Exchange Members or persons associated with Exchange Members. Additionally, the CEO or his or her designee would serve as the Chairman of an Advisory Board and the Nominating and Governance Committee would recommend the members of an Advisory Board for approval by the Board. There would also be an Exchange Member Subcommittee of the Advisory Board consisting of all members of the Advisory Board who are Exchange Members or persons associated with Exchange Members, which shall act as the Representative Director Nominating Body if and to the extent required by the proposed Bylaws. An Advisory Board would be completely advisory in nature and not be vested with any Exchange decision-making authority or other authority to act on behalf of the Exchange. The Exchange notes that CBOE and C2 currently maintain an Advisory Board, with the same proposed compositional requirements and functions.[42] The Exchange also notes, however, that while for CBOE and C2 an Advisory Board is mandatory, an Advisory Board for the Exchange would be permissive as the Exchange desires flexibility to determine if an Advisory Board should be established in the future. The Exchange notes that there is no statutory requirement to maintain an Advisory Board or Advisory Committee and indeed, other Exchanges, including EDGA itself, do not require the establishment of an Advisory Board.[43]

Officers, Agents and Employees

General

Article VII, Section 1 of the current Bylaws provides that that an individual may not hold office as both the President and Secretary, whereas the CBOE Bylaws provide an individual may not hold office as both the CEO and President and that the CEO and President may not hold office as either the Secretary or Assistant Secretary.[44] As these requirements are similar, if not more restrictive under the CBOE Bylaws, the Exchange proposes to include the same provisions in the CBOE Bylaws in Article V, Section 5.1 of the proposed Bylaws.

Resignation and Removal

Article VII, Section 3 of the current Bylaws provides that any officer may resign at any time upon notice of resignation to the Chairman and CEO, the President or the Secretary. The Exchange proposes to amend the provision relating to officer resignations to provide that any officer may resign at any time upon delivering written notice to the Exchange at its principal office, or to the CEO or Secretary.[45] Article VII, Section 3 of the current Bylaws also provides that any officer may be removed, with or without cause, by the Board. The Exchange proposes to provide that, in addition to being removed by the Board, an officer may be removed at any time by the CEO or President (provided that the CEO can only be removed by the Board).[46] Provisions relating to resignation and removal of officers in the proposed Bylaws will be identical to the relevant provisions of the CBOE Bylaws.[47]

Compensation

Article VII, Section 4 of the current Bylaws provides that the CEO, after consultation of the Compensation Committee, shall fix the salaries of officers of the Exchange and also states that the CEO's compensation shall be fixed by the Compensation Committee. In order to conform compensation practices to those of CBOE and C2, the Exchange proposes to modify these provisions to provide that in lieu of the CEO, the Board, unless otherwise delegated to a committee of the Board or to members of senior management, may fix the salaries of officers of the Exchange.[48] Additionally, in conjunction with the proposed change to eliminate the EDGA Compensation Committee, the Exchange proposes to eliminate language providing that the CEO's compensation is fixed by the Compensation Committee.

Chief Executive Officer and President

Article VII, Section 6 of the current Bylaws pertains to the CEO. The current Bylaws provide that the CEO shall be the Chairman of the Board. CBOE and C2, however, do not require that the CEO be Chairman of the Board. The Exchange desires similar flexibility in appointing its Chairman and, therefore, this requirement is not carried over in the proposed Bylaws.[49] Instead, Article V, Section 5.1 of the proposed Bylaws provides that the CEO shall be appointed by an affirmative vote of the majority of the Board, and may but need not be, the Chairman of the Board. The Exchange notes that to conform the language to the CBOE Bylaws, Article V, Section 5.2 of the proposed Bylaws also states that the CEO shall be the official representative of the Exchange in all public matters and provides that the CEO shall not engage in another business during his incumbency except with approval of the Board. Additionally, the Exchange proposes not to carry over language in the current Bylaws that provides that the CEO shall not participate in executive sessions of the Board, as CBOE Bylaws do not contain a similar restriction.

Article V, Section 5.3 of the proposed Bylaws proposes to provide that the President shall be the chief operating officer of the Exchange. The Exchange notes that the current Bylaws do not address appointing a chief operating officer. Additionally, while Article VII, Section 7 of the current Bylaws provides that the President shall have all powers and duties usually incident to the office of the President, except as specifically limited by a resolution of the Board, and shall exercise such other powers and perform such other duties as may be assigned to the President from time to time by the Board, Article V, Section 5.3 of the proposed Bylaws further states that in the event that the CEO does not act, the President shall perform the officer duties of the CEO, which is consistent with the language in the CBOE Bylaws.

Other Officers

The Exchange notes the following modifications relating to officer provisions in the proposed Bylaws, which are intended to conform the proposed Bylaws to the CBOE Bylaws:

- Article V, Sections 5.1 and 5.4 of the proposed Bylaws, which is identical to Article V, Sections 5.1 and 5.4 of the CBOE Bylaws, will provide that the Chief Financial Officer (''CFO'') is designated as an officer of the Exchange and that the Board and CEO may assign the CFO powers and duties as they see fit. The Exchange notes that the role of a CFO is not referenced in the current Bylaws.
- The proposed Bylaws eliminate the requirement in the current Bylaws that the Chief Regulatory Officer (''CRO'') is a designated officer of the Exchange.[50] As noted above, the Exchange desires to conform its Bylaws to the Bylaws of CBOE and the CBOE Bylaws do not

[42] *See* Article VI, Section 6.1 of CBOE Bylaws.

[43] For example, BOX Options Exchange, LLC does not require an advisory committee.

[44] *See* Article V, Section 5.1 of CBOE Bylaws.

[45] *See* Proposed Bylaws, Article V, Section 5.9.

[46] *See* Proposed Bylaws, Article V, Section 5.8.

[47] *See* Article V, Sections 5.8 and 5.9 of the CBOE Bylaws.

[48] *See* Proposed Bylaws, Article V, Section 5.11.

[49] The Exchange notes that currently the CEO of EDGA is also Chairman of the Board.

[50] *See* Current Bylaws, Article VII, Section 9.

reference the role of the CRO. The Exchange notes that notwithstanding the proposed elimination of the CRO provision, there is no intention to eliminate the role of the CRO.

• Article VII, Section 10 of the current Bylaws requires the Secretary to keep official records of Board meetings. The Exchange proposes to add to Article V, Section 5.6 of the proposed Bylaws, which is similar to the current Bylaws and based on Article V, Section 5.6 of the CBOE Bylaws, which requires that in addition to all meetings of the Board, the Secretary must keep official records of all meetings of stockholders and of Exchange Members at which action is taken.

• Article V, Section 5.7 of the proposed Bylaws, which is based on Article 5.7 of the CBOE Bylaws, would provide that the Treasurer perform such duties and powers as the Board, the CEO or CFO proscribes (whereas Article VII, Section 12 of the current Bylaws provides that such duties and powers may be proscribed by the Board, CEO or President).

• While the current Bylaws contain separate provisions relating to an Assistant Secretary and an Assistant Treasurer, the proposed Bylaws do not, as CBOE Bylaws similarly do not contain such provisions.[51]

Amendments

Article IX, Section 1 of the current Bylaws provides that the bylaws may be altered, amended, or repealed, or new bylaws adopted, (i) by written consent of the stockholders of the Exchange or (ii) at any meeting of the Board by resolution. The proposed Bylaws, however, eliminate the ability of stockholders to act by written consent and instead provides that in order for the stockholders of the Exchange to alter, amend, repeal or adopt new bylaws, there must be an affirmative vote of the stockholders present at any annual meeting at which a quorum is present.[52] Additionally, unlike the current Bylaws, the Exchange proposes to explicitly provide that changes to the bylaws shall not become effective until filed with or filed with and approved by the SEC, to avoid confusion as to when proposed amendments to the Bylaws can take effect.[53] The proposed provisions are the same as the corresponding provisions in the CBOE Bylaws.[54]

General Provisions

The Exchange proposes to add Article VIII, Section 8.1 of the proposed Bylaws, which is the same as Article VIII, Section 8.1 of the CBOE Bylaws, that unless otherwise determined by the Board, the fiscal year of the Exchange ends on the close of business December 31 each year, as compared to Article XI, Section 1 of the current Bylaws, which provides that the fiscal year of the Exchange shall be as determined from time to time by the Board. Note that the Exchange's fiscal year currently ends on the close of business December 31 each year.

The Exchange also proposes to add Article VIII, Section 8.2 of the proposed Bylaws, which is the same as Article VIII, Section 8.2 of the CBOE Bylaws, which governs the execution of instruments such as checks, drafts and bills of exchange and contracts and which is similar to Article XI, Section 6 of the current Bylaws.

Next, the Exchange proposes to adopt Article VIII, Section 8.4, which provides that, except as the Board may otherwise designate, the Chairman of the Board, CEO, CFO or Treasurer may waive notice of, and act as, or appoint any person or persons to act as, proxy or attorney-in-fact for the Exchange (with or without power of substitution) at, any meeting of stockholders or shareholders of any other corporation or organization, the securities of which may be held by the Exchange. The proposed provision is the same as Article VIII, Section 8.4 of the CBOE Bylaws and similar to Article XI, Section 7 of the current Bylaws, which provides generally that the CEO has the power and authority to act on behalf of the Company at any meeting of stockholders, partners or equity holders of any other corporation or organization, the securities of which may be held by the Exchange.

The Exchange proposes to adopt Article VIII, Section 8.7, which governs transactions with interested parties. Proposed Article VIII, Section 8.7 is the same as Article VIII, Section 8.7 of the CBOE Bylaws and substantially similar to language contained in Article III, Section 18 of the current Bylaws. Similarly, the Exchange proposes to adopt Article VIII, Section 8.8 which governs severability and is the same as Article VIII, Section 8.8 of CBOE Bylaws and substantially similar to Article XI, Section 8 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.10 which provides that the board may authorize any officer or agent of the Corporation to enter into any contract, or execute and deliver any instrument in the name of, or on behalf of the Corporation. The proposed language is the same as the language in Article VIII, Section 8.10 of the CBOE Bylaws and similar to related language in Article XI, Section 6 of the current Bylaws.

The Exchange proposes to adopt Article VIII, Section 8.12, relating to books and records and which is the same as Article VIII, Section 8.12 of CBOE Bylaws and which is similar to language contained in Article XI, Section 3 of the current Bylaws.

New Bylaw Provisions

The Exchange proposes to add provisions to the proposed Bylaws that are not included in the current Bylaws in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges. Specifically, the Exchange proposes to add the following to the proposed Bylaws:

• Article VII, which addresses notice requirements for any notice required to be given by the bylaws or Rules, including Article VII, Section 7.2, which provides whenever any notice to any stockholder is required, such notice may be given by a form of electronic transmission if the stockholder to whom such notice is given has previously consented to the receipt of notice by electronic transmission. The language mirrors the language set forth in Article VII, Section 7.2 of the CBOE Bylaws.

• Article VIII, Section 8.3 which is identical to Article VIII, Section 8.3 of the CBOE Bylaws, which provides that the corporate seal, if any, shall be in such form as approved by the board or officer of the Corporation.

• Article VIII, Section 8.5, which provides that a certificate by the Secretary, or Assistant Secretary, if any, as to any action taken by the stockholders, directors, a committee or any officer or representative of the Exchange shall, as to all persons who rely on the certificate in good faith, be conclusive evidence of such action. This language is identical to the language contained in Article VIII, Section 8.5 of the CBOE Bylaws.

• Article VIII, Section 8.6., which is identical to Article VIII, Section 8.6 of the CBOE Bylaws, which provides all references to the Certificate of Incorporation shall be deemed to refer to the Certificate of Incorporation of the Corporation, as amended, altered or restated and in effect from time to time.

• Article VIII, Section 8.11, which provides that the Exchange may lend money or assist an employee of the Exchange when the loan, guarantee or assistance may reasonably benefit the

[51] *See* Article VII, Sections 11 and 13 of the current Bylaws.

[52] *See* Proposed Bylaws, Article IX, Section 9.2.

[53] *See* Proposed Bylaws, Article IX, Section 9.3.

[54] *See* Article IX, Sections 9.2 and 9.3 of the CBOE Bylaws.

Exchange. This language is identical to the language contained in Article VIII, Section 8.11 of the CBOE Bylaws.

Eliminated Bylaw Provisions

The Exchange notes that the following provisions in the current Bylaws are not carried over in either the proposed Bylaws or proposed Certificate in order to conform the Exchange's bylaws to those of CBOE and C2 and provide consistency among the CBOE Holdings' U.S. securities exchanges:

• Article III, Sections 13 and 17. Section 13 provides that a director who is present at a Board or Board Committee meeting at which action is taken is conclusively presumed to have assented to action being taken unless his or her dissent or election to abstain is entered into the minutes or filed. Section 17 provides that the Board has the power to interpret the Bylaws and any interpretations made shall be final and conclusive. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.

• Article IX, Section 2, which relates to the Board's authority to adopt emergency Bylaws to be operative during any emergency resulting from, among other things, any nuclear or atomic disaster or attack on the United States, any catastrophe, or other emergency condition, as a result of which a quorum of the Board or a committee cannot readily be convened for action. Similarly, Article IX, Section 3, provides that the Board, or Board's designee, in the event of extraordinary market conditions, has the authority to take certain actions. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' exchanges.

• Article X, Section 2, which relates to disciplinary proceedings and provides that the Board is authorized to establish procedures relating to disciplinary proceedings involving Exchange Members and their associated persons, as well as impose various sanctions applicable to Exchange Members and persons associated with Exchange Members. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. Additionally, the Exchange notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such procedures and/or rules if necessary or desirable.[55]

• Article X, Section 3, which relates to membership qualifications and provides, among other things, that the Board has authority to adopt rules and regulations applicable to Exchange Members and Exchange Member applicants, as well as establish specified and appropriate standards with respect to the training, experience, competence, financial responsibility, operational capability, and other qualifications. The Exchange does not wish to include this provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. The Exchange again notes that Article III, Section 3.3 of the proposed Bylaws grants the Board broad powers to adopt such rules and regulations if necessary or desirable.

• Article X, Section 4, which relates to fees, provides that the Board has authority to fix and charge fees, dues, assessments, and other charges to be paid by Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls; provided that such fees, dues, assessments, and other charges shall be equitably allocated among Exchange Members and issuers and any other persons using any facility or system that the Company operates or controls. The Exchange does not wish to include this section of the provision in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws. To the extent the Board wishes to adopt such fees and dues, it has the authority pursuant to Article III, Section 3.3 of the proposed Bylaws. The Exchange notes that with respect to the language in Article X, Section 4 of the current Bylaws relating to the prohibition of using revenues received from fees derived from its regulatory function or penalties for non-regulatory purposes, similar language exists within CBOE Rules, particularly, CBOE Rule 2.51. In order to conform the Bylaws, the Exchange wishes to similarly, relocate this language to its rules, instead of maintaining it in its Bylaws. Specifically, the Exchange proposes to adopt new Rule 15.2, which language is based off CBOE Rule 2.51. The Exchange notes that this provision is designed to preclude the Exchange from using its authority to raise regulatory funds for the purpose of benefitting its Stockholder. Unlike CBOE Rule 2.51 however, proposed Rule 15.2 explicitly provides that regulatory funds may not be distributed to the stockholder. The Exchange notes that this language is currently contained in Article X, section 4 of the current Bylaws. Additionally, while not explicit in CBOE Rule 2.51, the Exchange notes that the rule filing that adopted Rule 2.51 does similarly state that regulatory funds may be not distributed to CBOE's stockholder.[56] Although proposed Rule 15.2 will differ slightly from CBOE Rule 2.51, the Exchange wishes to make this point clear to avoid potential confusion. Lastly, the Exchange notes that unlike Article X, Section 4 of the current Bylaws, proposed Rule 15.2, like CBOE Rule 2.51, will provide that notwithstanding the preclusion to use regulatory revenue for non-regulatory purposes, in the event of liquidation of the Exchange, Direct Edge LLC will be entitled to the distribution of the remaining assets of the Exchange.

• Certain sections in Article XI, including Section 2 (''Participation in Board and Committee Meetings''), Section 4 (''Dividends'') and Section 5 (''Reserves''). More specifically, Article XI, Section 2 governs who may attend Board and Board committee meetings pertaining to the self-regulatory function of the Exchange and particularly, provides among other things, that Board and Board Committee meetings relating to the self-regulatory function of the Company are closed to all persons other than members of the Boards, officers, staff and counsel or other advisors whose participation is necessary or appropriate.[57] Article XI, Section 4 provides that dividends may be declared upon the capital stock of the Exchange by the Board. Article XI, Section 5 provides that before any dividends are paid out, there must be set aside funds that the Board determines is proper as a reserves. The Exchange does not wish to include these provisions in the proposed Bylaws as no equivalent provisions exist in the CBOE Bylaws and the Exchange wishes to have uniformity across the bylaws of the CBOE Holdings' U.S. securities exchanges.

[55] The Exchange notes that the language in proposed Article III, Section 3.3 is similar to language provided for in Article X, Section 1 of the current Bylaws.

[56] *See* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088).

[57] Article XI, Section 2 also provides that in no event shall members of the Board of Directors of CBOE Holdings, Inc., CBOE V, LLC or Direct Edge LLC who are not also members of the Board, or any officers, staff, counsel or advisors of CBOE Holdings, Inc., CBOE V, LLC or Direct Edge LLC who are not also officers, staff, counsel or advisors of the Company (or any committees of the Board), be allowed to participate in any meetings of the Board (or any committee of the Board) pertaining to the self-regulatory function of the Company (including disciplinary matters).

(c) Changes to Rules

The Exchange will also amend its rules in conjunction with the proposed changes to its bylaws. The proposed rule changes are set forth in Exhibit 5E. First, the Exchange proposes to update the reference to the bylaws in Rule 1.1. Next, the Exchange notes that in order to keep the governance documents uniform, it proposes to eliminate the definitions of ''Industry member'', ''Member Representative member'' and ''Director'' from Article I of the current Bylaws. The Exchange notes that Industry members and Member Representative members are still used for Hearing Panels pursuant to Rule 8.6. As such, the Exchange proposes to relocate these definitions to the rules (specifically, Rule 8.6) and proposes to update the reference to the location of the definitions in Rule 8.6 accordingly (*i.e.,* refer to the definition in Rule 8.6 as opposed to the definition in the bylaws). The Exchange also proposes to eliminate language in Rule 2.10 that, in connection with a reference to ''Director'', states ''as such term is defined in the Bylaws of the Exchange''. As the definition of Director is being eliminated in the Bylaws, the Exchange is seeking to remove the obsolete language in Rule 2.10.

Lastly, as discussed above, the Exchange proposes to add new Rule 15.2, which will provide that any revenues received by the Exchange from fees derived from its regulatory function or regulatory fines will not be used for non-regulatory purposes or distributed to the Stockholder, but rather, shall be applied to fund the legal and regulatory operations of the Exchange (including surveillance and enforcement activities), or be used to pay restitution and disgorgement of funds intended for customers (except in the event of liquidation of the Exchange, which case Direct Edge LLC will be entitled to the distribution of the remaining assets of the Exchange). As more fully discussed above in the ''Eliminated Bylaw Provisions'' section, the proposed change is similar to Article X, Section 4 of the current Bylaws and based on Rule 2.51 of CBOE Rules.

The Exchange believes that the proposed changes to the current Bylaws and current Certificate would align its governance documents with the governance documents of each of CBOE and C2, which preserves governance continuity across each of CBOE Holdings' six U.S. securities exchanges. The Exchange also notes that the Exchange will continue to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply and to enforce compliance by its Members and persons associated with its Members, with the provisions of the Act, the rules and regulations thereunder, and the Rules, as required by Section 6(b)(1) of the Act.[58]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[59] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[60] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[61] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes that its proposal is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(1) of the Act in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange also believes that its proposal to adopt the Board and committee structure and related nomination and election processes set forth in the proposed Bylaws are consistent with the Act, including Section 6(b)(1) of the Act, which requires, among other things, that a national securities exchange be organized to carry out the purposes of the Act and comply with the requirements of the Act. In general, the proposed changes would make the Board and committee composition requirements, and related nomination and election processes, more consistent with those of its affiliates, CBOE and C2. The Exchange therefore believes that the proposed changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated with members. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3)[62] and (b)(5) of the Act in particular, in that it is designed to assure a fair representation of Exchange Members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer; and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. For example, the number of Non-Industry Directors must not be less than the number of Industry Directors. Additionally, the Exchange believes that the 20% requirement for Representative Directors and the proposed method for selecting Representative Directors ensures fair representation and allows members to have a voice in the Exchange's use of its self-regulatory authority. For instance, the proposed Bylaws includes a process by which Exchange members can directly petition and vote for representation on the Board.

Additionally, the Exchange believes the proposed Certificate, Bylaws and rules support a corporate governance framework, including the proposed Board and Board Committee structure that preserves the independence of the Exchange's self-regulatory function and insulates the Exchange's regulatory functions from its market and other commercial interests so that the Exchange can continue to carry out its regulatory obligations. Particularly, the proposed governance documents provide that Directors must take into consideration the effect that his or her actions would have on the ability of the Company to carry out its regulatory responsibilities under the Act and the proposed changes to the rules includes the restriction on using revenues derived from the Exchange's regulatory function for non-regulatory purposes,

[58] 15 U.S.C. 78f(b)(1).

[59] 15 U.S.C. 78f(b).

[60] 15 U.S.C. 78f(b)(5).

[61] *Id.*

[62] 15 U.S.C. 78f(b)(3).

which further underscores the independence of the Exchange's regulatory function. The Exchange also believes that requiring that the number of Non-Industry Directors not be less than the number of Industry Directors and requiring that all Directors serving on the ROC be Non-Industry Directors would help to ensure that no single group of market participants will have the ability to systematically disadvantage other market participants through the exchange governance process, and would foster the integrity of the Exchange by providing unique, unbiased perspectives.

Moreover, the Exchange believes that the new corporate governance framework and related processes being proposed are consistent with Section 6(b)(5) of the Act because they are substantially similar to the framework and processes used by CBOE and C2, which have been well-established as fair and designed to protect investors and the public interest.[63] The Exchange believes that conforming its governance documents based on the documents of the CBOE and C2 exchanges would streamline the CBOE Holdings' U.S. securities exchanges' governance process, create equivalent governing standards among the exchanges and also provide clarity to its members, which is beneficial to both investors and the public interest.

To the extent there are differences between the current CBOE and C2 framework and the proposed Exchange framework, the Exchange believes the differences are reasonable. First, the Exchange believes it's reasonable to provide that in Run-Off Elections, each Exchange Member shall have one (1) vote for each Representative Director position to be filled that year instead of one vote per Trading Permit held, because the Exchange, unlike CBOE and C2, does not have Trading Permits and because other exchanges have similar practices.[64] The Exchange believes it's also reasonable not to require the establishment of an Advisory Board, as the Exchange desires flexibility in maintaining such a Committee, and is not statutorily required to maintain such a committee. Additionally, the Exchange notes that it currently does not have an Advisory Board. Lastly, the Exchange notes that it is reasonable to not require a standing exchange-level Appeals Committee because the Board still has the authority to appoint an Appeals Committee in the future as needed pursuant to its powers under Article IV, Section 4.1 of the proposed Bylaws and because an Appeals Committee is not statutorily required.

Finally, the proposed amendments to the rules as discussed above are non-substantive changes meant to merely update the Rules in light of the proposed changes to the current Bylaws and to relocate certain provisions to better conform the Exchange's governance documents to those of CBOE and C2.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change relates to the corporate governance of EDGA and not the operations of the Exchange. This is not a competitive filing and, therefore, imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsEDGA–2017–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGA–2017–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGA–2017–22 and should be submitted on or before September 27, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[65]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–18790 Filed 9–5–17; 8:45 am]

BILLING CODE 8011–01–P

[63] *See e.g.,* Securities Exchange Act Release No. 62158 (May 24, 2010), 75 FR 30082 (May 28, 2010) (SR–CBOE–2008–088); Securities Exchange Act Release No. 64127 (March 25, 2011), 76 FR 17974 (March 31, 2011) (SR–CBOE–2011–010); and Securities Exchange Act Release No. 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017).

[64] *See e.g.,* Amended and Restated By-Laws of Miami International Securities Exchange, LLC, Article II, Section 2.4(f).

[65] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15274 and #15275; TEXAS Disaster Number TX–00487]

Presidential Declaration of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4332–DR), dated 08/25/2017.

Incident: Hurricane Harvey.

Incident Period: 08/23/2017 and continuing.

DATES: Issued on 08/25/2017.

Physical Loan Application Deadline Date: 10/24/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/25/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/25/2017, applications for disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Bee, Goliad, Kleberg, Nueces, Refugio, San Patricio.

Contiguous Counties (Economic Injury Loans Only):

Texas: Aransas, Brooks, Calhoun, Dewitt, Jim Wells, Karnes, Kenedy, Live Oak, Victoria.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.500
Homeowners without Credit Available Elsewhere	1.750
Businesses with Credit Available Elsewhere	6.610
Businesses without Credit Available Elsewhere	3.305
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.305
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 152748 and for economic injury is 152750.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–18760 Filed 9–5–17; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15274 and #15275; Texas Disaster Number TX–00487]

Presidential Declaration Amendment of a Major Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Texas (FEMA–4332–DR), dated 08/25/2017.

Incident: Hurricane Harvey.

Incident Period: 08/23/2017 and continuing.

DATES: Issued on 08/27/2017.

Physical Loan Application Deadline Date: 10/24/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 05/25/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Texas, dated 08/25/2017, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Aransas, Brazoria, Calhoun, Chambers, Fort Bend, Galveston, Harris, Jackson, Liberty, Matagorda, Victoria, Wharton

Contiguous Counties (Economic Injury Loans Only):

Texas: Austin, Colorado, Hardin, Jefferson, Lavaca, Montgomery, Polk, San Jacinto, Waller

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–18761 Filed 9–5–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 101101]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: ''Giovanni Bellini: Landscapes of Faith in Renaissance Venice'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Giovanni Bellini: Landscapes of Faith in Renaissance Venice,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum at the Getty Center, Los Angeles, California, from on or about October 10, 2017, until on or about January 14, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11,

2015). I have ordered that Public Notice of these determinations be published in the **Federal Register.**

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–18821 Filed 9–5–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Modification to Previously Published Notice of Intent To Prepare an Environmental Assessment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is publishing this notice to advise the public of a modification to the Notice of Intent to Prepare an Environmental Assessment (EA) and notice of opportunity for public comment published in the **Federal Register** on April 21, 2014. Specifically, FAA is withdrawing a Terminal Area Apron Expansion Project from the scope of the EA, and the project will be subject instead to a discrete environmental review.

FOR FURTHER INFORMATION CONTACT: Parks Preston, Assistant Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Room 220, College Park, Georgia 30337–2747, (404) 305–6799.

SUPPLEMENTARY INFORMATION: Paulding Northwest Atlanta Airport (PUJ) is located outside Atlanta, Georgia, in the town of Dallas, Georgia. Paulding County and the Paulding County Airport Authority (PCAA) own the airport. PUJ opened in 2008 and is designated as a general aviation airport. An EA for the construction of PUJ was completed in 2005. The 2005 EA evaluated the future Terminal Area Apron Expansion. In 2011, PUJ owners redesigned the Terminal Area Apron Expansion and conducted a supplemental environmental assessment (SEA) to consider potential environmental impacts associated with the revised project. The Georgia Department of Transportation (GDOT), as authorized by the FAA's State Block Grant Program, issued a Finding of No Significant Impact (FONSI), and the FAA issued a Record of Decision on the SEA in March 2011.

In September 2013, the PCAA submitted an application to the FAA requesting an Airport Operating Certificate under title 14 Code of Regulations, Part 139. A Part 139 Airport Operating Certificate allows the airport to accommodate scheduled passenger-carrying operations, commonly referred to as ''commercial service.'' In November 2013, several Paulding County residents filed a Petition for Review in the United States Court of Appeals for the District of Columbia of two categorical exclusions issued by GDOT for airfield improvement projects. The petitioners argued that the two projects were connected to the proposed introduction of commercial service at PUJ. On December 23, 2013, the petitioners and the FAA entered into a settlement agreement under which the FAA agreed to prepare, at a minimum, an EA for the proposed Part 139 Airport Operating Certificate and all connected actions. The FAA is currently in the process of preparing that EA (current EA). While the settlement agreement contemplated that the current EA would include all actions connected with the proposed issuance of the Part 139 Airport Operating Certificate, the FAA opted to include in the current EA all reasonably foreseeable airport improvement projects, whether or not connected with the proposed introduction of commercial service.

On April 21, 2014, the FAA published a ''Notice of Intent to Prepare an Environmental Assessment and Notice of Opportunity for Public Comment'' in the **Federal Register**, 79 FR 22177. The Notice of Intent identified all of the projects intended to be reviewed in the EA, including ''construct[ion of] a terminal area expansion to provide hangars and apron area'' which is the Terminal Area Apron Expansion Project. FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, requires that where major steps toward implementation of the proposed action have not commenced within 3 years from the date of the issuance of an environmental finding, further environmental review is required. The current EA was to include the Terminal Area Apron Expansion Project because major steps toward implementation of the project had not been undertaken since the issuance of the FONSI in March 2011.

PUJ owners now desire to move forward with the Terminal Area Apron Expansion Project more expeditiously than will be possible if the project remains within the scope of the current EA. The primary need for expediting this project is the approaching expiration of a permit for the project issued by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act.

In accordance with FAA Order 1050.1F, where major steps toward implementation of a proposed action have not commenced within 3 years from the date of the issuance of a FONSI, a written reevaluation may be prepared. In this case, the general aviation apron has independent utility, is not connected to the Part 139 Airport Operating Certificate, and is therefore not required by the National Environmental Policy Act or the terms of the 2013 settlement agreement to be included in the EA. Accordingly, the current EA will no longer consider direct impacts of the Terminal Area Apron Expansion Project, but will address potential cumulative impacts associated with the project.

To satisfy the requirements of FAA Order 1050.1F, GDOT has prepared a written reevaluation of the project, and FAA concurred. The written reevaluation is available for review at PUJ and online at *http://www.paulding.gov/DocumentCenter/View/5935.*

Issued in Atlanta, Georgia, on August 28, 2017.

Larry F. Clark,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2017–18920 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land; Indianapolis International Airport, Indianapolis, Indiana.

SUMMARY: The FAA is considering a proposal to change 22.111 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Indianapolis International Airport, Indianapolis, Indiana. The aforementioned land is not needed for aeronautical use. The future use of the property is for commercial and industrial development. The land is located on the northwest corner of Ronald Reagan Parkway and Stafford Road.

There are no impacts to the airport by allowing the Indianapolis Airport Authority to dispose of the property.

DATES: Comments must be received on or before October 6, 2017.

ADDRESSES: Documents are available for review by appointment at the FAA Chicago Airports District Office, Melanie Myers, Program Manager, 2300 East Devon Avenue, Des Plaines, IL 60018 Telephone: (847) 294–7525/Fax: (847) 294–7046 and Eric Anderson, Director of Properties, Indianapolis Airport Authority, 7800 Col. H. Weir Cook Memorial Drive, Indianapolis, Indiana 46241 (317) 487–5135

Written comments on the Sponsor's request must be delivered or mailed to: Melanie Myers, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018 Telephone Number: (847) 294–7525/FAX Number: (847) 294–7046.

FOR FURTHER INFORMATION CONTACT: Melanie Myers, Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, IL 60018 Telephone: (847) 294–7525/Fax: (847) 294–7046.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The vacant land consists of fifteen (15) original airport acquired parcels. These parcels were acquired under grants 3–18–0038–17, 3–18–0038–18, 3–18–0038–23, 3–18–0038–24, 3–18–0038–25, 3–18–0038–45, or without federal participation. The future use of the property is for commercial and industrial development.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Indianapolis International Airport from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Legal Description

Part of the Northwest Quarter of Section 32, Township 15 North, Range 2 East in Hendricks County, Indiana, more particularly described as follows:

Commencing at a mag nail with washer stamped ''Cripe Firm No. 0055'' (hereinafter referred to as ''a mag nail'') at the Southeast corner of the Northwest Quarter of said Section 32; thence North 00 degrees 23 minutes 29 seconds East (assumed bearing) along the East line of said Northwest Quarter 117.10 feet; thence North 89 degrees 36 minutes 38 seconds West 16.50 feet to a ⅝ inch diameter rebar with a yellow plastic cap stamped ''Cripe Firm No. 0055'' (hereinafter referred to as ''a rebar'') on the West right of way line of Ronald Reagan Parkway and the POINT OF BEGINNING; thence North 00 degrees 23 minutes 29 seconds East along the said West right of way line and parallel to the said East line 1250.78 feet to the North line of land described in Deed Record 301, page 852, recorded in the Office of the Recorder of Hendricks County, Indiana; thence North 89 degrees 59 minutes 55 seconds West parallel with the South line of said Northwest Quarter 755.60 feet to the Northwest corner of land described in Deed Record 301, page 406, recorded in said Recorder's Office and ''a rebar''; thence South 00 degrees 23 minutes 29 seconds West parallel with the East line of said Northwest Quarter 723.00 feet to the Southwest corner of land described in Deed Record 303, page 419, recorded in said Recorder's Office; thence South 89 degrees 59 minutes 55 seconds East along the South line of said described land and parallel with the South line of said Northwest Quarter 191.30 feet to the Northwest corner of land described in Deed Record 312, page 3, recorded in said Recorder's Office and ''a rebar''; thence South 00 degrees 23 minutes 29 seconds West along the West line of said described land and parallel with the East line of said Northwest Quarter 150.00 feet to the North line of land described in Deed Record 299, page 605, recorded in said Recorder's Office; thence North 89 degrees 59 minutes 55 seconds West along said North line and parallel with the South line of said Northwest Quarter 191.30 feet to the Northwest corner thereof; thence South 00 degrees 23 minutes 29 seconds West along the West line of said described land and parallel with the East line of said Northwest Quarter 146.52 feet to the Northeast corner of land described in Instrument No. 199800012353, recorded in said Recorder's Office and ''a rebar''; thence North 89 degrees 59 minutes 55 seconds West along the North line of said described land and parallel with the South line of said Northwest Quarter 125.00 feet to the Northwest corner thereof; thence South 00 degrees 23 minutes 29 seconds West along the West line of said described land and parallel with the East line of said Northwest Quarter 236.93 feet to ''a rebar'' on the North right of way line of Stafford Road (the next four courses are along said North right of way line); (1) thence South 89 degrees 59 minutes 55 seconds East parallel with the said South line 132.72 feet to ''a rebar''; (2) thence South 81 degrees 28 minutes 04 seconds East 132.70 feet to ''a rebar''; (3) thence South 89 degrees 59 minutes 55 seconds East parallel with the said South line 574.15 feet to ''a rebar''; (4) thence North 59 degrees 12 minutes 36 seconds East 49.52 feet to the POINT OF BEGINNING, containing 22.111 acres, more or less

Issued in Des Plaines, Illinois on August 29, 2017.

Carlton Lambiasi,

Acting Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2017–18845 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Alaska

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitations on Claims for Judicial Review of Actions by the FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other federal agencies that are final. The actions relate to a proposed highway project, Seward Highway Milepost 75 to 90 Road and Bridge Rehabilitation, in the Kenai Peninsula Borough and the Municipality of Anchorage, Alaska. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency action subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before *February 5, 2018.* If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Henry Rettinger, Central Region Area

Engineer, FHWA Alaska Division, P.O. Box 21648, Juneau, Alaska 99802–1648; office hours 8 a.m.–4:30 p.m. (AST), phone (907) 586–7544; email *Henry.Rettinger@dot.gov.* You may also contact Brian Elliott, DOT&PF Central Region Environmental Manager, Alaska Department of Transportation and Public Facilities, 4111 Aviation Drive, P.O. Box 196900, Anchorage, Alaska 99519–6900; office hours 7:30 a.m.–5 p.m. (AST), phone (907) 269–0539, email *Brian.Elliott@alaska.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the proposed highway project, Seward Highway Milepost 75 to 90 Road and Bridge Rehabilitation, in the Kenai Peninsula Borough and the Municipality of Anchorage, Alaska. The proposed project would improve the Seward Highway between Milepost 75 and Milepost 90 as follows:

1. Resurface the entire 15-mile highway corridor with asphalt and reconstruct its subbase where necessary;
2. Construct auxiliary passing lanes in three locations (in total, approximately 5 miles of new northbound passing lanes and 5 miles of new southbound passing lanes will be constructed);
3. Realign and reprofile the MP 88 horizontal and vertical curves;
4. Realign the Portage curve, which would make at-grade improvements at the Portage Glacier Road intersection and improve recreation access in the vicinity;
5. Construct two parking areas near MP 81.5 and MP 83 to access the area for hooligan dipnet fishing, the parking lots will be connected by a new paved path;
6. Replace or reconstruct most existing driveways;
7. Replace eight bridges (at Glacier Creek, Virgin Creek, Peterson Creek, Twentymile River, Portage Creek No. 1, Portage Creek No. 2, Placer River, and Placer River Overflow) and rehabilitate one bridge (at Ingram Creek);
8. Where possible, replace and reduce the existing guardrail length;
9. Improve drainage by replacing or reconfiguring culverts; and
10. Replace/install miscellaneous maintenance/intelligent transportation system features such as: Road Weather Information Systems, Automatic Traffic Recorders, and avalanche protection gun pads.

The environmental effects of the Seward Highway Milepost 75 to 90 Road and Bridge Rehabilitation project are evaluated and described in the Revised Environmental Assessment (REA) issued pursuant to the National Environmental Policy Act. Key issues identified in the REA include a not likely to adversely affect determination for the Cook Inlet Beluga Whale and designated Critical Habitat, construction mitigation measures to protect the Cook Inlet Beluga Whale and designated Critical Habitat, identification and protection of Section 4(f) historic and recreational properties within the project corridor, and temporary construction effects on local businesses and tourism. Measures to avoid, minimize, and/or mitigate adverse environmental effects are included in the REA and associated Finding of No Significant Impact (FONSI).

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the REA, Section 4(f) evaluations, and FONSI, issued on June 6, 2017, and in other documents in the FHWA project records. The REA, Section 4(f) evaluations, FONSI, and other project records are available by contacting FHWA or the State of Alaska Department of Transportation & Public Facilities at the addresses provided above. The EA and FONSI documents can be viewed and downloaded from the project Web site at *http://www.sewardhighway75to90.com* or viewed at 4111 Aviation Avenue, Anchorage, Alaska 99519.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321 *et seq.*]; Council on Environmental Quality Regulations [40 CFR parts 1500 *et seq.*]; Federal-Aid Highway Act of 1970 [23 U.S.C. 109]; MAP–21, the Moving Ahead for Progress in the 21st Century Act [Pub. L. 112–141].
2. *Air:* Clean Air Act [42 U.S.C. 7401 *et seq.*].
3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Land and Water Conservation Fund (LWCF) [54 U.S.C. 200301 *et seq.*].
4. *Noise:* Noise Control Act of 1972 [42 U.S.C. 4901 *et seq.*].
5. *Wetlands and Water Resources:* Clean Water Act (Section 401 and Section 404) [33 U.S.C. 1251 *et seq.*] (Federal Water Pollution Control Act of 1972); Safe Drinking Water Act, as amended [42 U.S.C. 300f *et seq.*]; Coastal Zone Management Act [16 U.S.C. 1451 *et seq.*]; Wild and Scenic Rivers Act [16 U.S.C. 1271 *et seq.*].
6. *Wildlife:* Endangered Species Act of 1973, as amended [16 U.S.C. 1531 *et seq.*]; Marine Mammal Protection Act of 1972, as amended [16 U.S.C. 1361 *et seq.*]; Fish and Wildlife Coordination Act, as amended [16 U.S.C. 661 *et seq.*]; Migratory Bird Treaty Act [16 U.S.C. 703–712]; Anadromous Fish Conservation Act [16 U.S.C. 757a–757g]; Magnuson-Stevenson Fishery Conservation and Management Act, as amended [16 U.S.C. 1801 *et seq.*].
7. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470aa *et seq.*]; Archeological and Historic Preservation Act [54 U.S.C. 312501 *et seq.*].
8. *Social and Economic:* Title VI of the Civil Rights Act of 1964, as amended [42 U.S.C. 2000d *et seq.*]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201 *et seq.*].
9. Executive Orders: E.O. 13186—Responsibilities of Federal Agencies to Protect Migratory Birds; E.O. 11514—Protection and Enhancement of Environmental Quality; E.O. 11990—Protection of Wetlands; E.O. 11988—Floodplain Management; E.O. 13112—Invasive Species; E.O. 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: August 29, 2017.

Sandra A. Garcia-Aline,

Division Administrator, Juneau, Alaska.

[FR Doc. 2017–18901 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–27387; FMCSA–2008–0137; FMCSA–2009–0122; FMCSA–2011–0143; FMCSA–2013–0018; FMCSA–2015–0060; FMCSA–2015–0061]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 134 individuals from its prohibition in the Federal Motor Carrier Safety

Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http//www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On June 6, 2017, FMCSA published a notice announcing its decision to renew exemptions for 134 individuals from the insulin-treated diabetes mellitus prohibition in 49 CFR 391.41(b)(3) to operate a CMV in interstate commerce and requested comments from the public (82 FR 26222). The public comment period ended on July 6, 2017 and one comment was received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person:

Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

III. Discussion of Comments

FMCSA received one comment in this preceding. Irenee Muluh stated that she is in favor of renewing the exemptions for all 134 drivers in this notice if they have remained compliant with the standards of the program.

IV. Conclusion

Based upon its evaluation of the 134 renewal exemption applications and comments received, FMCSA announces its' decision to exempt the following drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce in 49 CFR 391.64(3):

As of July 2, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 24 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (72 FR 27625; 72 FR 36101; 78 FR 26419; 78 FR 39825):

Darrell L. Allen (MO)
Luis A. Alvarez (MD)
Jeffery C. Badberg (NE)
Kevin W. Bender (NY)
Ricky N. Blankenship (UT)
Ronnie T. Bledsoe (NC)
Kevin E. Blythe (AR)
Clayton J. Bragg (IN)
Jessie W. Burnett (KS)
Cary W. Chase (CO)
Peggy A. Colbert (GA)
Ernest R. Copeland (PA)
Jerry L. Grimit (IA)
Robert J. Guilford (NY)
Lucas C. Hansen (IA)
Bruce K. Harris (TX)
Michael G. Lorelli (NY)
James M. McClarnon (RI)
Franklin C. Perrin (IA)
Douglas F. Reinke (WI)
Timothy S. Seitz (IN)
Daniel L. Smith (NE)
Randall J. Stoller (IL)
Jeffrey A. Withers (MI)

The drivers were included in one of the following docket numbers: FMCSA–2007–27387; FMCSA–2013–0018. Their exemptions are applicable as of July 2, 2017, and will expire on July 2, 2019.

As of July 7, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 33 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 31949; 80 FR 49299):

Craig S. Barton (UT)
Kevin H. Bennerson (NY)
Eugene Butler (AR)
Allen D. Clise (MD)
John W. Dillard (TX)
Derek P. Elkins (AZ)
Joshua J. Ellett (IN)
Raymond C. Erschen (PA)
Dominic C. Frisina (PA)
David D. Gambill (NC)
Alan G. Gladhill (MD)
Richard A. Hall (IL)
Craig L. Jackson (WY)
Wayne A. Jadezuk (NY)
Lee L. Kropp (WI)
David E. Lawton (MA)
Babe A. Lisai (NY)
Adrian Martinez-Alba (TX)
Daniel Mendolia (NY)
Timothy W. Olden (NJ)
John Palermo (NJ)
John N. Peterson (WI)
Robert L. Potter, Jr. (NH)
Todd M. Raether (NE)
Michael A. Ramsey (CT)
Peter B. Rzadkowski, Jr. (IL)
Michael A. Scavotto (MA)
Steven J. Schmitt (MN)
Douglas J. Smith (NY)
Carmen M. Stellitano (PA)
Andy L. Strommenger (CO)
Robert T. Warriner (NJ)
Ellis E. Wilkins (MA)

The drivers were included in docket number FMCSA–2015–0060. Their exemptions are applicable as of July 7, 2017, and will expire on July 7, 2019.

As of July 23, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 33 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (80 FR 35705; 80 FR 48393):

Daniel E. Benes (WI)
William E. Blake (TX)
Thomas M. Burns (NJ)
George W. Cahall (DE)
John T. Curry (TN)
Christopher A. DiCioccio (CT)
Johnny L. Emory (KS)
Ike Gibbs (CA)
Juan Gomez, Jr. (IA)
George A. Gross (NY)
Grover D. Johnson (NY)
Francis D. Judd (MA)
George S. Kean (NH)
Yehuda Lauber (NY)
Kyle A. Mininger (AL)

John T. Murchison, Jr. (TN)
Axel J.M. Murphy (MN)
Charles M. Naylis (PA)
Craig J. Nelson (IL)
Richard A. Nigro (NJ)
Thomas S. O'Brien (TX)
Paul T. Ozbun (OK)
Modesto F. Pedote (NY)
David M. Pomeroy (IA)
Matthew C. Preston (KY)
Anthony A. Rachuy (MN)
Dwight B. Richardson (OK)
James C. Rocco (NJ)
Patrick J. Severance (NY)
Billy L. Wagner (IL)
Steven L. Wear (ND)
James T. Young (MI)
David J. Zelhart (IL)

The drivers were included in docket number FMCSA–2015–0061. Their exemptions are applicable as of July 23, 2017, and will expire on July 23, 2019.

As of July 26, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following ten individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 32012; 76 FR 44650):

Teddy L. Beach (ND)
Franklin L. Bell (NE)
Jeffrey F. Borelli (OH)
Dale E. Burke (WA)
Boyd L. Croshaw (UT)
Derek Haagensen (MN)
Todd J. Smith (NY)
Andrew C. Winsberg (WA)
Nathan E. Woodin (IL)
Vicky A. Yernesek (WI)

The drivers were included in docket number FMCSA–2011–0143. Their exemptions are applicable as of July 26, 2017, and will expire on July 26, 2019.

As of July 28, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 34 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (73 FR 33144; 73 FR 43817; 74 FR 26467; 74 FR 37293):

Jeromy B. Birchard (MN)
Bradley M. Brown (TX)
Robert F. Browne III (NH)
William M. Camp (GA)
Robert F. Carter (IN)
Scott A. Cary (NC)
Eugene W. Clark, Jr. (WI)
William D. Cornwell III (OH)
Adam F. Demeter (NY)
Brian P. Dionne (NH)
Richard C. Dunn (CT)
Donald K. Ennis (NC)
Larry A. Fritz (PA)
Jerret L. Gerber (WI)
Alan L. Johnson (WA)
Richard B. Lorimer (MO)
Lester J. Manis (MD)
Troy A. Martinson (WI)
Richard L. Miller (OH)
Jerome A. Mjolsness (MN)
Richard Murphy (NH)
Edward F. Murray (NY)
Nicholas W. Pomnitz (NJ)
Clayton M. Reynolds (WA)
Brandon M. Ross (ND)
Jeffrey S. SaintVincent (CA)
Patrick D. Schiller (MI)
Bruce D. Schmoyer (PA)
Joseph E. Sobiech (WI)
James L. Swedenburg (MN)
Gary A. Sweeney (NY)
Lawrence M. Tanner (NV)
Robert D. Tarkington (AK)
Joshua C. Webb (AR)

The drivers were included in one of the following docket numbers: FMCSA–2008–0137; FMCSA–2009–0122. Their exemptions are applicable as of July 28, 2017, and will expire on July 28, 2019.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: August 25, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–18826 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2017–0057]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden.

DATES: Comments must be received on or before November 6, 2017.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2017–0057 using any of the following methods:

Electronic submissions: Go to *http://www.regulations.gov* and follow the on-line instructions for submitting comments.

Mail, Hand Delivery, or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Management Facility, M–30, Room W12–140, Washington, DC 20590.

Docket hours are 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays; phone 202–647–5527.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Berning, Contracting Officer's Representative, Office of Behavioral Safety Research, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Berning's phone number is 202–366–5587 and the email address is *amy.berning@dot.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: None.

Title: Drug Use by Drivers Arrested for Driving Under the Influence or Driving While Under the Influence of Drugs

Form Number: This collection of information uses no standard forms.

Type of Request: Regular.

Respondents—Under this proposed effort, NHTSA will collect data from approximately 1,000 drivers/participants.

Estimated time per Participant—NHTSA estimates that participants will spend an average of 15 minutes to complete the survey and provide the oral fluid specimen. The respondents would not incur any reporting cost or record keeping burden from the data collection.

Total Estimated Annual Burden Hours: 250 hours per year.

Frequency of Collection: Each participant will provide one oral fluid sample and respond to the survey questions only once during the study period.

Summary of Collection of Information: This study will estimate the prevalence of drugs in drivers arrested for impaired driving. The goal is to better understand the frequency of alcohol, prescription, over-the-counter, and illicit drugs, in impaired driving arrests.

A minimum of 1,000 drivers arrested for impaired driving, who consent to voluntarily participate, will provide an oral fluid sample and respond to interview questions. The oral fluid sample provides information on the participant's use of 50 or more drug(s). Trained researchers will ask

participants questions regarding demographics, driving, alcohol, and drug use.

Data collection would take place over a six month period at two to three sites across the country. The research team will coordinate with the local police departments and officials at these sites. There will be a private room at each police department's booking facility for this study's use.

A police officer will briefly inform the driver/potential participant of the opportunity to participate in a research study sponsored by NHTSA. If the driver is interested, a researcher will provide full information about the study. If the driver is not interested, no information will be collected on that person. The researcher will highlight that participation is voluntary, the oral fluid and survey responses will be anonymous, and the participant may stop the study at any time. The results of the drug test and questionnaire will not be provided to anyone outside of the research team (including to the participant), and participation in the study will not be used to help or hurt the individual in any related legal proceedings. All participants must be 18 years of age or older to participate.

To provide an oral fluid sample, a participant simply places a cotton swab in their mouth for approximately 5 minutes. The specimen will be sent to an independent laboratory for analyses. The participant will also be provided a self-report survey on alcohol and drug use, perceptions of impaired driving, and driving behaviors. This survey will take approximately 10 minutes and will be conducted via an electronic tablet or, if needed, a paper copy will be available. All data will be housed on a secure data collection and management site. No identifying participant information will be collected or used in the study. Drug test results will only be associated with survey responses using a project subject code.

Description of the Need for the Information and Proposed Use of the Information: The purpose of this study is to examine the drug presence and drug use characteristics of drivers arrested for impaired driving. While there is extensive research on alcohol-impaired driving, significantly less is known about the prevalence and risk factors of over-the-counter, prescription, and illegal drug-positive driving. A significant reason for this lack of information is that impaired drivers with alcohol in their system are rarely tested for other drugs and, when tested, are only tested for a few drugs. To address this knowledge gap, this study will obtain a biological specimen from the drivers, to directly learn about drug use, along with collecting self-report data.

The data will be used to better understand the prevalence of a variety of drugs in impaired drivers and better understand risk factors for drug-impaired driving.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Issued in Washington, DC.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2017–18827 Filed 9–5–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Sale of Residence From Qualified Personal Residence Trust (T.D. 8743)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to Sale of Residence From Qualified Personal Residence Trust.

DATES: Written comments should be received on or before November 6, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

Requests for additional information or copies of the regulation should be directed to Taquesha Cain, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Taquesha.R.Cain@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Sale of Residence From Qualified Personal Residence Trust.

OMB Number: 1545–1485.

Regulation Project Number: T.D. 8743

Abstract: Internal Revenue Code section 2702(a)(3) provides special favorable valuation rules for valuing the gift of a personal residence trust. Regulation section 25.2702–5(a)(2) provides that if the trust fails to comply with the requirements contained in the regulations, the trust will be treated as complying if a statement is attached to the gift tax return reporting the gift stating that a proceeding has been commenced to reform the instrument to comply with the requirements of the regulations.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 3 hour, 7 minutes.

Estimated Total Annual Burden Hours: 625.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 29, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–18839 Filed 9–5–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Members of Senior Executive Service Performance Review Boards

AGENCY: Internal Revenue Service (IRS), Department of the Treasury (Treasury).

ACTION: Notice.

SUMMARY: The purpose of this notice is to publish the names of those IRS employees who will serve as members on IRS's Fiscal Year 2017 Senior Executive Service (SES) Performance Review Boards.

DATES: This notice is effective September 1, 2017.

FOR FURTHER INFORMATION CONTACT: Cheryl Huffman, IRS, 250 Murall Drive, Kearneysville, WV 25430, (304) 579–6987.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members to the IRS's SES Performance Review Boards. The names and titles of the executives serving on the boards are as follows:

Kirsten B. Wielobob, Deputy Commissioner for Services and Enforcement
Jeffrey J. Tribiano, Deputy Commissioner for Operations Support
David P. Alito, Deputy Division Commissioner, Wage & Investment
Dretha M. Barham, Director, Operations Support, Small Business/Self-Employed
Robert J. Bedoya, Director, Submission Processing, Information Technology
Michael C. Beebe, Director, Return Integrity and Compliance Services, Wage & Investment
E. Faith Bell, Deputy IRS Human Capital Officer
Thomas A. Brandt, Chief Risk Officer
Linda J. Brown, Director Submission Processing, Wage & Investment
Phyllis Brown, Director, Collection-Headquarters, Small Business/Self-Employed
Carol A. Campbell, Director, Return Preparer Office
John V. Cardone, Director, Withholding and International Individual Compliance, Large Business & International
Robert Choi, Director, Employee Plans, Tax Exempt & Government Entities
Elia I. Christiansen, Executive Director, Office of Equity, Diversity & Inclusion
James P. Clifford, Director, Customer Account Services, Wage & Investment
Katherine M. Coffman, IRS Human Capital Officer
Amelia C. Colbert, Acting Chief of Staff
Kenneth C. Corbin, Commissioner, Wage & Investment
Brenda A. Dial, Director, Examination, Small Business/Self-Employed
Nanette M. Downing, Assistant Deputy Commissioner, Government Entities/Shared Service, Tax Exempt & Government Entities
Pamela Drenthe, Director, Examination Planning and Performance Analysis, Small Business/Self-Employed
Alain Dubois, Deputy Chief, Financial Officer
John C. Duder, Project Director, Deputy Commissioner for Services and Enforcement
Elizabeth A. Dugger, Assistant Deputy Commissioner for Operations Support
Kimberly A. Edwards, Director, Western Compliance, Large Business & International
Dennis A. Figg, Director, Program and Business Solutions, Large Business & International
Nikole C. Flax, Deputy Chief, Appeals
John D. Fort, Chief, Criminal Investigation
Karen L. Freeman, Deputy Chief Information Officer for Operations, Information Technology
Silvana G. Garza, Chief Information Officer, Information Technology
Ursula S. Gillis, Chief, Financial Officer
Linda K. Gilpin, Associate Chief Information Officer, Enterprise IT Program Management Office, Information Technology
Dietra D. Grant, Director, Customer Assistance, Relationships and Education, Wage & Investment
Darren J. Guillot, Director, Collection—Field, Small Business/Self-Employed
Valerie Gunter, Director, Media & Publications, Wage & Investment
Daniel S. Hamilton, Associate Chief Information Officer, Enterprise Services, Information Technology
Donna C. Hansberry, Chief, Appeals
Barbara Harris, Director, Northeastern Compliance Practice Area, Large Business & International
Nancy E. Hauth, Director, Examination Field, Small Business/Self-Employed
Mary R. Hernandez, Associate Chief Information Officer, Enterprise Operations, Information Technology
Benjamin D. Herndon, Director, Research, Applied, Analytics & Statistics
John E. Hinding, Director, Cross Border Activities Practice Area, Large Business & International
David W. Horton, Deputy Commissioner, Tax Exempt & Government Entities
Cecil T. Hua, Director, Infrastructure Services, Information Technology
Eric C. Hylton, Deputy Chief, Criminal Investigation
Scott E. Irick, Director, Examination Headquarters, Small Business/Self-Employed
Sharon C. James, Associate Chief Information Officer, Cybersecurity, Information Technology
Robin D. Jenkins, Director, Collection—Campus, Small Business/Self-Employed
Tracy A. Keeter, Director, Enterprise Technology Implementation, Information Technology
Andrew J. Keyso Jr., Chief of Staff
Edward T. Killen, Chief Privacy Officer, Privacy, Governmental Liaison and Disclosure
Terry Lemons, Chief, Communications & Liaison
Sunita B. Lough, Commissioner, Tax Exempt & Government Entities
William H. Maglin II, Associate Chief Financial Officer for Financial Management
Paul J. Mamo, Director, Online Services
Lee D. Martin, Director, Whistleblower's Office
Erick Martinez, Director of Field Operations—Northern Area, Criminal Investigation
Ivy S. McChesney, Director, Examination—Ogden, Small Business/Self-Employed
Kevin Q. McIver, Chief, Agency-Wide Shared Services
Tina D. Meaux, Assistant Deputy Commissioner Compliance Integration, Large Business & International
Mary E. Murphy, Commissioner, Small Business/Self-Employed
Frank A. Nolden, Director, Stakeholder, Partnerships, Education & Communication, Wage & Investment
Douglas W. O'Donnell, Commissioner, Large Business & International
Nina E. Olson, National Taxpayer Advocate
Kaschit D. Pandya, Deputy Associate Chief Information Officer, Enterprise Operations, Information Technology
Holly O. Paz, Director, Pass Through Entities, Large Business & International
Richard A. Peterson, Senior Advisor/Technology Advisor, Deputy Commissioner for Services and Enforcement
Mary S. Powers, Director, Operations Support, Wage & Investment
Scott B. Prentky, Director, Collection, Small Business/Self-Employed
Robert A. Ragano, Deputy, Associate Chief Information Officer for Applications Development, Information Technology
Tamera L. Ripperda, Deputy Commissioner, Small Business/Self-Employed

Kathy J. Robbins, Director, Enterprise Activities, Large Business & International
Richard L. Rodriguez, Director, Facilities Management and Security Services, Agency-Wide Shared Services
Rene S. Schwartzman, Deputy Director Online Services and IRS Identity Assurance Executive
Rosemary Sereti, Deputy Commissioner, Large Business & International
Theodore D. Setzer, Assistant Deputy Commissioner International, Large Business & International
Verline A. Shepherd, Associate Chief Information Officer for User and Network Services, Information Technology
Nancy A. Sieger, Associate Chief Information Officer for Applications Development, Information Technology
Susan Simon, Director, Field Assistance, Wage & Investment
Harrison Smith, Deputy Chief Procurement Officer
Tommy A. Smith, Associate Chief Information Officer, Strategy and Planning, Information Technology
Marla L. Somerville, Deputy Chief Information Officer for Strategy and Modernization, Information Technology
Carolyn A. Tavenner, Director, Affordable Care Act
Kathryn D. Vaughan, Director, Examination—Campus, Small Business/Self-Employed
Margaret Von Lienen, Director, Exempt Organizations, Tax Exempt & Government Entities
Shanna R. Webbers, Chief Procurement Officer
Stephen A. Whitlock, Director, Office of Professional Responsibility
Lavena B. Williams, Director, Eastern Compliance, Large Business & International
Johnny E. Witt, Deputy Director, Affordable Care Act

This document does not meet the Treasury's criteria for significant regulations.

Jeffrey J. Tribiano,

Deputy Commissioner for Operations Support, Internal Revenue Service.

[FR Doc. 2017–18840 Filed 9–5–17; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

Vol. 82 Wednesday,

No. 171 September 6, 2017

Part II

The President

Proclamation 9633—National Alcohol and Drug Addiction Recovery Month, 2017

Federal Register
Vol. 82, No. 171
Wednesday, September 6, 2017

Presidential Documents

Title 3—

The President

Proclamation 9633 of August 31, 2017

National Alcohol and Drug Addiction Recovery Month, 2017

By the President of the United States of America

A Proclamation

During National Alcohol and Drug Addiction Recovery Month, we stand with the millions of Americans in recovery from alcohol and drug addiction, and reaffirm our commitment to support those who are struggling with addiction, and their families and loved ones. Substance abuse robs Americans of their potential, shatters their families, and tears apart our communities. My Administration is committed to lifting our Nation from this tragic reality.

Substance addiction affects people of every class, creed, and color. More than 20 million Americans are addicted to alcohol or other drugs, and countless more lives have been touched as a consequence of substance abuse.

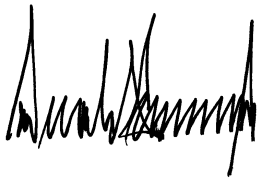
Together, however, we can fight drug and alcohol abuse. This month, we emphasize to all those suffering that recovery is possible. My Administration is taking a proactive approach to support State and local communities as they work on the front lines to prevent substance use and addiction and to promote recovery. To date, we have dedicated more than $500 million to strengthening prevention programs, expanding access to evidence-based addiction treatment, and building networks of recovery support services across our Nation. And earlier this year, I established the *President's Commission on Combating Drug Addiction and the Opioid Crisis* to help guide the Federal Government's response to drug abuse and drug addiction, with a particular focus on the opioid epidemic that is currently afflicting our country.

Solving our Nation's drug and alcohol problems requires both a strong public health response and a strong public safety response that stems the flow of illicit drugs into our communities. I have, therefore, requested $2.6 billion in my 2018 budget proposal for border security and infrastructure that will improve our ability to protect Americans and the homeland from the dangers of drug trafficking.

During National Alcohol and Drug Addiction Recovery Month, and throughout the year, let us remember those who have bravely conquered their addiction. We also pray for those currently suffering so they may, through effective treatment and the strength of family and friends, transform their lives. Finally, let us also thank the family members, friends, and healthcare providers who provide much-needed assistance, encouragement, and love to support Americans in recovery.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 2017 as National Alcohol and Drug Addiction Recovery Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of August, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2017–19046
Filed 9–5–17; 11:15 am]
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